a position where we need to stay and finish, and we are still arguing over the basics.

I visited Iraq 3 weeks ago, went there after first going to Kuwait and visiting with our troops. I met with the 1644th Illinois National Guard unit, a transport unit that moves humvees and trucks back and forth between Baghdad and Kuwait City every single day at great danger to the men and women driving those vehicles. The first thing they wanted to show me was: get in the truck, sit here and look how cramped it is as we sit here for hours and look around. There is no armored protection for us as we are driving back and forth through these dangerous zones. Two years after the invasion, we still do not have the adequate equipment that our troops need.

This bill will come before us, and I will support it. I had misgivings, and still do, about the initiation of the invasion of Iraq but I do not have any misgivings about providing our soldiers, our marines, our airmen and our sailors the very best equipment and all the resources they need to perform their mission and come home safely.

Look at some other aspect of this war that is equally important. This is a different war than we have ever waged. This is a war that depends on an American fighting force that is largely, or at least to a great extent, composed of men and women in the National Guard and Reserves. We have not done this before, but we have to do it now. Were it not for the 40 percent of the 157,000 or 160,000 men and women in Iraq from Guard and Reserve units, we would not be able to send our soldiers in the field to fight. Thank goodness those Guard and Reserve units are there.

Understand that unlike the Active-Duty military, the Guard and Reserve military come in under different personal and family circumstances. Here is a man or woman in a Guard unit in Illinois or virtually any State who signed up to serve his or her country looking for perhaps some scholarship assistance to go to school, ready to respond to a natural disaster or to be called up for a few weeks at a time, and they are being activated for lengthy periods, for a year to a year and a half and sometimes more. It is creating a terrible hardship for the families of these Guard and Reserve unit members.

The amendment that is pending before us is very basic. We have said to employers across America, if one of their employees is in the Guard or Reserve, and that employee is activated, do your best to stand behind that employee and his family; make certain, if they can, they keep their health insurance in place, if necessary; try to make up the differential in pay between what the military pays and what they were making in the private sector so that soldier who is off risking his life is not worried about the family back home.

And guess what. Almost 1,000 American businesses have stepped forward and said: We accept the challenge. We believe in these men and women. We believe in America. We are going to stand behind them. So when they are activated, these companies step up, as well as units of local government, and make up the difference in pay, giving them the peace of mind to know that even though they are separated from their family while away overseas, they are going to have enough money coming in to make the mortgage payments, pay the utility bills, and all the basics of life.

When it comes to employers, there is one employer that does not meet that obligation; there is one employer in America, the largest single employer of Guard and Reserve soldiers in America, that refuses to make up the difference in pay. There is one employer in America which has said for 2 straight years now, We will not protect the Guard and Reserve soldiers' families while they are overseas fighting. There is one employer in America that coincidentally is praising all of these private-sector employers for standing behind their soldiers and yet refusing to cover their own employees. What is that employer? It is the United States Government. Our Federal Government refuses to make up the pay differential for activated Federal employees who go into the Guard and Reserve. It turns out that some 51 percent of those who are serving overseas today have seen a dramatic cutback in their pay. How can we have Web sites and speeches praising all of the employers across America, the businesses that stand behind their soldiers, while the Federal Government does not?

So for the third time since the invasion of Iraq, I am offering this amendment. It is called the Reservist Pay Security Act, and it says the Federal Government will meet the obligation private sector employers are meeting every day and make up the pay differential for Federal employees who go overseas in the Guard and Reserve. It is not a radical suggestion. It is a commonsense suggestion that we would stand behind these employees and soldiers as we ask others to do.

I see some of my other colleagues are in the Chamber, and I am going to yield the floor at this moment. We are hoping for a vote at around 12:15 or so, but we are going to accommodate the schedules of the Senators and try to ask for a unanimous consent.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268 which the clerk will report.

The assistant journal clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Kerry amendment No. 333, to extend the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty.

Kerry amendment No. 334, to increase the military death gratuity to $100,000, effective with respect to any deaths of members of the Armed Forces on active duty after October 7, 2001.

Durbin amendment No. 356, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished Senator from Massachusetts, Mr. KERRY, for not to exceed 10 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished Senator from West Virginia for his courtesy.

Mr. President, I ask unanimous consent to add Senator LAUTENBERG as a cosponsor to Senate amendment No. 333 and Senate amendment No. 334.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 333 AND 334

Mr. KERRY. Mr. President, yesterday I introduced two amendments to help our military families to be able to contend with the death of a loved one and the problems that flow to these families when one of America's service people are lost either in combat or in the course of duty. The disruptions are obviously enormous and unimaginable in many ways, but one of those disruptions is that after a period of 180 days, even in the middle of a school year, a widow would have to move off the base notwithstanding the kids are in the middle of a school year. I can give the names of people I have met in a number of instances over the course of the last couple of years traveling the country, people who talked about the incredible disruption to their family because of this.

What we have learned listening to the commanders in the military and also to the families is that when we recruit, we are not just recruiting individual soldiers, and when we equip, we don't just equip by giving them the weapons and the technology they need to fight a war. We recognize we recruit a whole family and we retain a whole family. We need to have policies that are family thoughtful, family sensitive, so we can retain people in the military, particularly in a volunteer force where we expend enormous public dollars in order to train people to provide us with the superb capacity we have in our military.

One of my amendments would provide an extension of that 180-day period of time so you get a year for the school year issue and other issues of finding a suitable home and figuring out whether you are going to go back and live with your parents, what your job is going to be, and where you are going to live, so all of these things are not providing added pressure to families who are already remarkably disrupted.

The second is an amendment that would extend the death benefits, the total death benefits to families so those families who are unfortunate enough to lose a loved one are not suffering for the rest of their lives as a consequence of that contribution to their Nation.

These amendments would be the first strong steps in what I call the military families bill of rights. I am not going to go through all of the details and the arguments for that, but I would like to say to my colleagues that yesterday I sent out an e-mail asking Americans to send stories in about their personal struggles with these issues, or those of their friends and friends' families that they heard about.

In less than 24 hours over 2,000 families responded. They took the time out of their busy days in the hopes that we would listen, so I would like to share a few of those stories with my colleagues.

The first is a couple in Austin, TX, who e-mailed me about one of their two young children who has Job's syndrome. When their father was called to duty, Home Depot stopped paying his salary and cut his health insurance. His wife, who was a schoolteacher, had to purchase insurance on the open market, leaving her finances in complete disarray. Her daughter was in the hospital so often that she eventually used up all of her sick and vacation days. The school docked her pay for lost time, and her financial situation went from bad to worse.

This is because her husband was serving his country, but the Government did nothing for his family to make up that difference.

I got an e-mail from a pharmacist whose nurses were upset about a woman who could not afford medication for her child because her husband had been called to duty in Iraq. They eventually found a way to get the mother the medication that her daughter needed, but the pharmacist was left questioning his Nation's leadership. Here is what he said:

> I was dismayed that there apparently was no help available for this mother whose husband was serving his country.

A guy in Abilene, TX, e-mailed me about his first friend in the world who was shot down in Iraq. He left behind a wife and three children. Over 2,000 people honored him at the memorial service, but that did not do anything to help his parents, who were draining their retirement savings to get health insurance for their grandchildren. This fallen soldier's friend wrote:

> Nathan's family is getting by because of their love and faith in God and each other, but after losing a son in service to America, they should not have to struggle to see that his wife and children will get by. His wife has already lost her husband, and his children will already grow up without their father. His daughter Courtney will not have her Dad to walk her down the aisle when she marries. They will not have a Dad at their High School graduations or at the birth of their children. They should not have to sacrifice anymore.

That is what this friend wrote to us, all of us Senators. Finally, I want to share a letter I received in February from Amy Beth Moore from Fort Hood, TX. Her two children, Meghan, age 13, and Sean, age 10, no longer have their father Jim. During his tour in Iraq, Jim was shot at, and his Hummer took a near deadly bullet in the gas tank. When he returned home, he was a senior officer in charge of refitting his unit for the next deployment. This required frequent helicopter flights back and forth from Texarkana.

On November 29, 2004, his Blackhawk crashed, killing Jim and six other soldiers. Listen to what Amy wrote:

> Consider our predicament. But for the grace of God, my husband would not have survived a deployment to Iraq and then was working to ready the Fourth Infantry Division for its next deployment. Why should it matter where he was killed while serving proudly in the military? Why should we as his surviving wife and children not be entitled to the increased death gratuity and life insurance? I have been a full time mom, managing the home front of a career soldier and it is now up to me as a widow and a single parent to provide for our children. These benefits would greatly assist me in doing that and frankly, without them, we will have a serious challenge in the days and months and years ahead without Jim. I know that compensation in any form will in no way make up for the loss of a loved husband and father and all the missed moments that we would have shared as a family, but nothing is more important to me right now than trying to take care of my children, and it is on their behalf that I make this request.

We have heard from military families. We have heard from friends. There are thousands more such stories across the Nation. The test is whether we, as a matter of conscience and common sense, are going to do what is right for those who serve our country.

I thank the Appropriations Committee for fixing part of this, for going beyond the administration's request to limit the benefit to combat. But now I ask my colleagues to heed the advice of uniformed military leaders about those on active duty today and their families in the military. We need to provide this benefit to all Active-Duty personnel.

Amy Beth Moore is right. What difference does it make where he was killed? He was killed preparing the troops to do what we need to do in Iraq, and his loss is as real whether he was killed in Iraq or elsewhere. If we fail to adopt these amendments we are going to confirm the greatest fears of Amy Beth Moore and the over 2,000 Americans who e-mailed their stories to me, that Washington talks a good game but doesn't really care about these families.

For the survivors of our Nation's fallen heroes, much of life remains. Although no one can ever put a price on the loss of the life of any loved one, it is up to us to try to be generous, and I think correct, in helping them to put their lives back together. I urge my colleagues to join me in working toward a strong bipartisan military families bill of rights that does right by those who serve and by their families. I hope we can start that by taking the right direction in adopting these two important amendments today.

I thank the distinguished Senator from West Virginia again for his courtesy.

I ask unanimous consent to add Senator DURBIN as a cosponsor.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask if the Senator will add my name as a cosponsor to both amendments.

Mr. KERRY. I am honored to have the Senator from West Virginia as a cosponsor.

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. Madam President, the bill before us contains funding for a number of items that can hardly be described as emergencies, despite the fact that they are contained in an emergency supplemental funding bill.

One of those items that fairly leaps off the page is a $36 million earmark, tucked away in the report under military construction for the Army, to build a new, permanent prison at Guantanamo, Cuba. Why is this tucked away as an emergency? It is to house detainees from the war on terrorism.

What struck me about this item is that the American people are being asked to build a permanent prison to house 220 prisoners from the war on terrorism when the courts have not yet determined the legal status of the detainees or whether the United States can continue to hold these individuals indefinitely without charging them with a crime.

We are walking on thin ice here—thin ice. If ever there was a case of putting the cart before the horse, this seems to be it. Construction of a new

permanent prison in Guantanamo assumes that the United States has in place a solid policy and a valid requirement for the long term internment of detainees at that site when in fact neither the policy nor the requirement has been validated.

Ever since the Supreme Court ruled last year that U.S. law applied to Guantanamo, and that prisoners held there could challenge their detentions in Federal Court, the status of the detainees at Guantanamo has been a matter of open debate. A flurry—we have reached beautiful spring weather now, but a flurry of subsequent legal challenges mixed with allegations of prisoner abuse have only muddied the waters further.

In August, a Federal district judge ruled that the military tribunals being conducted at Guantanamo must be halted because they did not provide minimally fair procedures and violated international law. Hey, look out here. Look what we are doing. Where are we going? Meanwhile, another Federal judge recently stopped the Government from transferring detainees from Guantanamo to other countries pending a review of the process.

What is wrong with that? At the heart of the Guantanamo detention controversy is whether the detainees are entitled to prisoner of war status under the 1949 Geneva Convention, or are they, as the administration contends, ''enemy combatants'' who are entitled to no judicial oversight. It is a complex legal debate that is unlikely to be resolved anytime soon.

And yet the White House has determined that the construction of a $36 million maximum security prison at Guantanamo is such an urgent requirement that it cannot allow the courts to rule on the validity of the administration's detainee policy or even wait for the regular appropriations process. Not even wait for the regular bill—put it in the supplemental.

This despite the fact that there is currently no overcrowding at Guantanamo, that the prison population is steadily declining—down to approximately 540 from a high of about 750—and that the Pentagon has already built a $16 million, permanent, state-of-the-art maximum security prison at Guantanamo to hold 100 prisoners. At the same time, according to an article last month in The New York Times, the Defense Department is trying to enlist the aid of the State Department and other agencies to transfer more prisoners out of Guantanamo, in an effort to cut by more than half the current population at Guantanamo.

The fact is, the Pentagon has no idea at this point how many detainees from the war on terrorism are facing long term detention, or where they will eventually end up.

As Defense Secretary Donald Rumsfeld put it at a hearing before the Senate Appropriations Committee in February, ''The Department of Defense would prefer not to have the responsibility for any detainees.''

For once, I agree with Secretary Rumsfeld, particularly given the allegations of abuse that have dogged the Defense Department's treatment of detainees in Iraq and Afghanistan as well as Guantanamo. The Defense Department should not automatically assume an open-ended burden of being the world's jailer of foreign enemy combatants.

Given all the uncertainties concerning the future requirements for detention facilities at Guantanamo, where—oh where, tell me—is the urgency in this request? The Defense Department insists that prisoners currently in custody at Guantanamo are in conditions that are safe, secure, and humane. The current detention facilities at Guantanamo include Camp 4, where detainees live in 10-man bays with nearly all-day access to exercise yards and other recreational privileges; Camp 1, where detainees are housed in individual cells with a toilet and sink in each cell; and Camp 5, the new 100-bed maximum security prison that the Pentagon boasts would be envied by many States. Camp Delta also boasts a 19-bed detainee hospital, which military officials describe as a state-of-the-art facility, complete with first-rate dental care.

With the exception of the existing maximum security prison, these are temporary facilities, but according to the Defense Department, they are designed to provide safe, secure, and humane housing for the prisoners. As the Pentagon is quick to point out, the concrete slab and open-air chain-link enclosures that originally housed prisoners when the Guantanamo detention facilities opened in January of 2002 are long gone.

The Defense Department, in its justification for the new prison, asserts that the existing temporary facilities are nearing the end of their useful life, will not meet Geneva Convention requirements, and will be subject to continued scrutiny by the International Committee of the Red Cross, the ICRC, until facility standards are raised.

Playing the Geneva Convention card is a curious tactic coming from an administration that selectively cherry-picks which of the Geneva Convention standards it chooses to apply to the prisoners at Guantanamo. The only Geneva Convention requirements cited by the Defense Department in its justification for the new prison are that housing units and core functions should be contiguous and allow for communal conditions where practical—certainly nice-to-have amenities but hardly a core requirement for the humane treatment of prisoners.

In fact, the ICRC's main concern about Guantanamo, according to the organization's website, is not contiguous detention units but the fact that the administration has attempted to place the detainees in Guantanamo beyond the law. Building a new prison will not address that concern, and it will not exempt the Guantanamo detention center from the watchful eyes of the Red Cross. Nor will allegations of mistreatment of prisoners at Guantanamo be resolved by trading one set of cell blocks for another.

There may indeed be advantages to moving more Guantanamo prisoners from temporary into permanent detention facilities, but until we have a clearer picture of the number of prisoners who will be housed there over the long term, there is no compelling reason to rush into spending $36 million of your money—it is your money—the taxpayers' dollars to build a prison based on guesstimates instead of facts.

At a hearing of the Senate Armed Services Committee last month, Gen Bantz Craddock, Commander of the U.S. Southern Command, which oversees Guantanamo, was asked what the Pentagon was doing to improve the quality of life for the U.S. military personnel assigned to Guantanamo. General Craddock replied that he had submitted a list of unfunded requirements of several million dollars for U.S. military facilities. But, he continued, ''we are watching this closely because we don't want to get out in front of the policy with regard to the long-term detainee issue down there.''

That is good advice from General Craddock, and I would suggest that we apply it to the detention facilities at Guantanamo as well. It is the policy that should drive the construction, not the other way around. Before we ask the American taxpayers—before we ask you, the people out there who are watching the Senate Chamber here with open eyes, with open ears and probably with open mouths, you, it is your money—before we ask you, the American taxpayers to spend $36 million to build a brand new permanent prison for foreign detainees at Guantanamo we should make sure that we have an ironclad requirement for that prison. Until the courts have resolved the legal status of the prisoners and until the Department of Defense and the administration determine the role of the department in the long-term detention of the prisoners, building a permanent maximum security prison at Guantanamo is premature.

Madam President, are there any pending amendments ahead of this amendment?

The PRESIDING OFFICER. There are amendments pending.

Mr. BYRD. I will take my amendment in the order in which the amendment has been called up.

I ask unanimous consent ahead of time if it may be in order to have the yeas and nays on my amendment, even though it won't be voted on at this moment.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

AMENDMENT NO. 367

Mr. BYRD. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 367.

Mr. BYRD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce by $36,000,000 the amount appropriated for ''Military Construction, Army'', with the amount of the reduction to be allocated to funds available under that heading for the Camp 6 Detention Facility at Guantanamo Bay, Cuba)

On page 169, line 13, strike ''$897,191,000'' and insert ''$861,191,000''.

Mr. BYRD. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I thank the Chair, and I thank all Senators.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, for the information of all Senators, we are preparing to seek unanimous consent that we have a series of three votes that will begin at 1:45 p.m. today. These will be on or in relation to the Durbin amendment and the two Kerry amendments which are pending before the Senate. We hope to be able to reach agreement on this consent request so Senators can be advised very soon that that will be the order of the Senate.

That still leaves, of course, the amendment of the Senator from West Virginia which we will have an opportunity to discuss separate and apart from these three that will be voted on. Then we will seek to deal with that amendment in the regular order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I am pleased to advise the Senate that we have been able to reach agreement on a series of votes that will occur at 1:45. I am authorized by the leadership on both sides to propound this unanimous consent request.

I ask unanimous consent at 1:45 p.m. today the Senate proceed to a series of votes in relation to the following amendments: Durbin No. 356; Kerry No. 333; Kerry No. 334; provided further that no amendments be in order to these amendments prior to the votes, and that prior to the Durbin vote Senator STEVENS and Senator DURBIN be allocated 5 minutes each to speak; further, that there be 2 minutes equally divided for debate prior to each vote; finally, that all votes after the first be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I appreciate the cooperation of all Senators in getting this agreement. Senator BYRD has offered an amendment on which the yeas and nays have been ordered, but we will not vote on that amendment until others who wish to speak on the amendment have an opportunity to do so. That will occur at any time. If we do complete debate on the Byrd amendment prior to 1:45, that could be something we could consider adding, but at this point we are not prepared to make that announcement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, imagine how nervous you would be if I told you as we go about our business in the Senate, hidden in the Capitol basement were over 500 tons of some of the deadliest material ever conceived by man, VX nerve gas. Suppose I told you it had been there for decades, and although the authorities had previously promised to safely destroy some toxins, they were now changing their tune. They had put their plans to dispose of these deadly weapons on hold, leaving you to babysit them. I imagine you would start to feel a little nervous. Now you know how the residents of Madison County, KY, feel. For the people of Madison County, KY, and all over central Kentucky, the fear I have described is a daily reality.

The Blue Grass Army Depot in Madison County contains 523 tons of our Nation's chemical weapons stockpile. Since the 1940s, it has stored mustard gas, sarin nerve agent, and VX nerve agent. Each of these is among the deadliest nerve agents ever created. As little as 10 milligrams of VX is enough to kill a human being. That is about the mass of 10 grains of sand. It is virtually undetectable to the naked eye, and yet if that tiny amount is inhaled, death is imminent. If it is absorbed through the skin, death takes mere minutes.

The time has come for the safety of our fellow Kentuckians to safely eliminate these heinous weapons.

The Department of Defense has agreed it is time for the weapons to go. They promised they would dispose of them. Congress has appropriated hundreds of millions of dollars for them to safely destroy the materials. Yet the Department refuses to take the necessary steps to accomplish the task. The Department has offered all sorts of reasons why, many of which even contradict each other. But the bottom line is, they refuse to spend the money the President requested and the Congress appropriated to dispose of these chemical weapons stored in Kentucky.

This Congress cannot and will not let them get away with it. The Department's foot dragging on eliminating these weapons is simply unacceptable. The best they claim they can do is to place the Blue Grass Army Depot on caretaker status, meaning that virtually no cleanup action will be taken. The Department's own studies have shown the longer we sit on these dangerous weapons, the greater the risk to surrounding communities. The Department of Defense needs to fulfill its obligations, and it needs to clean up these sites now—not some other time, now.

In 1996, I authored legislative language that created the Assembled Chemical Weapons Alternatives Program, also known as ACWA, to find the best method to destroy VX and other deadly agents. The Blue Grass Army Depot became one of the ACWA sites, along with a site in Pueblo, CO.

The DOD refuses to clean up that site in Colorado also, and so my friend Senator WAYNE ALLARD knows this issue well. I thank him for his steadfast involvement and leadership on this question. He feels as strongly as I do that the dangerous substances located at the hearts of our States need to be disposed of safely and quickly.

The Department claims ACWA sites must be downgraded to caretaker status because they are over budget due to cost overruns. Yet the Department's own schizophrenic decisionmaking is what led to these costs. The Department has repeatedly stopped or slowed down design work and then restarted, adding unnecessary startup and stopwork costs. They stingily parcel out appropriated monies in such small quantities that it is impossible to spend it efficiently. Thus, it is the Department's own bureaucratic mismanagement that has created the cost problems.

Perhaps we should expect no less from an outfit whose operating maxim is printed on this board behind me. Dr. Dale Klein, the Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs, admitted in his testimony last week before the House Armed Services Committee that, as he said:

As I often tell people, some of our budgeting processes are accurate but incorrect.

Let me run that by you one more time. He said:

As I often tell people, some of our budgeting processes are accurate but incorrect.

What nonsense. Can you believe that? Dr. Klein, speaking of the Department of Defense, said on the record:

. . . some of our budgeting processes are accurate but incorrect.

I will leave it to someone else to figure out exactly what that means, but it

does not fill me with confidence in the Department's ability to resolve this issue. The Congress must pursue this matter if we ever want to see positive results. Therefore, I have authored a provision, section 1115, in this bill before us, the supplemental appropriation bill, that expressly directs DOD to spend the money Congress has appropriated to dispose of chemical weapons at the Blue Grass Army Depot, which is in Kentucky, and the Pueblo Chemical Depot, which is in Colorado. It forbids them, absolutely forbids them, from shunting that money into any other purpose.

Let me be clear: This provision does not add a penny of new spending to this bill. It merely requires the Department to spend the money they requested for the purposes they identified.

DOD has broken its word to the citizens of Madison County. But the language I have authored will force the Department to get Blue Grass back on track, and I promise that prediction will prove both accurate and correct. My provision will guarantee that the $813.4 million in prior-year monies that has been budgeted for ACWA sites will not be transferred for other purposes.

Over the past several years, the President has requested specific funds for ACWA. For reasons of comity, Congress has provided these funds for the overall chemical demilitarization program largely in lump sums, trusting that DOD would comply with the President's budget request. But they have not. Instead, DOD undermined the President's budget request and diverted funds intended for the ACWA Program. This language will hold the Department to the President's budget request with respect to this program.

My provision will force DOD to obligate at least $100 million at the ACWA sites within 120 days of the enactment of this legislation before us. Because the Department has purposely—purposely—withheld funds from the ACWA sites and downgraded them to caretaker status, work has come to a virtual halt at Blue Grass in Kentucky and completely at Pueblo in Colorado.

The Department itself has repeatedly determined that the storing of these deadly weapons poses an increasing danger over time. Yet they now complain they will have to jump through multiple bureaucratic hoops before those sites can be up and running again. By obligating $100 million immediately, we can get much-needed funds moving through the pipeline again and help jump-start the cleanup efforts at both sites.

My provision will also require the Department to provide Congress with a bimonthly accounting, every 2 months, of the money spent at these sites. This improved oversight will hopefully shed some light on the opaque processes at DOD. Perhaps with enough work, we can even find out how to make a budget both accurate and correct.

Because safety is paramount, my provision will do one more thing. It will prohibit DOD from conducting a study on the transportation of chemical weapons across State lines. Because transporting chemical weapons across State lines is illegal already, one would think this provision unnecessary. But despite the law, the Department has ordered a study on doing that which it cannot legally do. It is a mystery to me why the Department would spend precious time and money exploring an option that is not an option, that is illegal under Federal law. Let me say again, the Department of Defense is currently spending funds that should be going toward destroying deadly chemical weapons on studying a course of action that is illegal.

That suggests to me that rather than destroying the chemical weapons where they are stored, the Department is considering transferring them out of the Blue Grass Army Depot to other facilities. That is reckless and irresponsible for too many reasons to describe. Kentuckians do not want trucks full of nerve gas speeding down the interstate, and I suspect neither do the people of other States, such as Alabama, Arkansas, Utah, or any other State. Even if it were legal, there is no way politically these weapons are going to be moved across the country to some other site for destruction.

Before I conclude, I want to address one more failure of the Department of Defense. By not meeting their obligations to the people of Kentucky and Colorado, they are breaking not only their word, they are breaking America's word. That is because by placing the ACWA sites on caretaker status, the Department is acknowledging the weapons will not be disposed of at least until 2016 at the earliest, yet the United States has signed the Chemical Weapons Convention, which establishes a deadline for elimination of these substances in 2012 at the latest. The Department of Defense should be working with all the speed it can muster to meet this deadline, not openly thumbing its nose at it. Passing this bill will move us closer to compliance with the Chemical Weapons Convention.

In this age of terrorism, our decision-making processes for handling and disposing of such horrifying weapons must be focused and clear. The Department of Defense approach to ACWA sites has been neither.

I urge our colleagues to support this bill. With the passage of section 1115, you will get accountability and transparency from the Department of Defense. You will ensure that the promise made to the people of Kentucky is a promise fulfilled. Most importantly, you will protect the safety of hundreds of thousands of Americans.

On the other hand, if we do nothing, it will all be left up to DOD. The best they can be is ''accurate but incorrect.''

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is time control in place right now?

The PRESIDING OFFICER. The Senator has 5 minutes prior to the first vote.

Mr. STEVENS. I have 5 minutes after 1:45 p.m.

The PRESIDING OFFICER. The Senator has 5 minutes before the vote at 1:45 p.m.

AMENDMENT NO. 334

Mr. STEVENS. Mr. President, I wish to speak first on the amendment offered by Senator KERRY.

The PRESIDING OFFICER. The Senator from Alaska may proceed.

Mr. STEVENS. Mr. President, our Defense Subcommittee has considered this matter very closely. We believe the provision for death gratuity is a special and unique situation, and we provided it in the bill before the Senate.

What we seek to provide is a special recognition for our Nation's fallen heroes who have given their lives in combat defending our Nation or who have died in training or other activity that is considered related to combat by title X.

Let me state that again. Our provision covers all service members who lose their lives in combat or who die in training or other activity that is considered combat related by title X.

The normal death gratuity in effect now is $12,400. It provides immediate cash to meet the needs of survivors. This amount is payable immediately and is intended to provide sufficient funding to support families until other benefits, particularly those such as the Survivor Benefit Plan, Dependency and Indemnity Compensation, and Social Security, come into play.

We believe every life is precious, and we grieve over the loss of life when it occurs among anyone in our military. But our Appropriations Committee has included this provision to provide special recognition for fallen heroes. This special recognition is intended for those who have died as a result of combat or combat-related situations, such as training, and in support of the global war against terrorism our Nation is fighting.

The administration and the Department of Defense strongly oppose the recommended expansion of the death gratuity to cover all deaths of anyone who is in uniform. In fact, a 2004 independent study requested by the Department of Defense concluded that the full system of benefits provided to survivors of members who die on active duty is adequate, substantial, and comprehensive.

That study did identify a lack of recognition for direct sacrifice of life, as

provided by the Public Safety Officers' Benefit Act, which pays more than $267,000 to survivors in recognition of deaths in performance of duty of law enforcement officers and firefighters. The Senate supplemental bill provides this type of recognition for our military.

First, if we consider opening the special death gratuity for all casualties, we should also consider the significance of a retroactive date, as we considered the concept of trying to cover all casualties. If the increased death gratuity is provided for all deaths, there is no longer a direct connection to the events of 9/11 and the war against terrorism.

Finally, to increase the death gratuity to include all deaths would cost an additional $300 million in this year alone, 2005. The total bill for fiscal year 2005 would be about $1.1 billion.

Many of us who served in war in defense of our Nation—and I am one of those—believe there is a special significance in the way we have defined death gratuity in the Senate bill before us now. We believe it is fully appropriate for the problem of recognizing fallen heroes.

I know this provision is related to other outpourings of those who have lost life in the September 11 controversy. There is a connection in that this provision seeks to recognize soldiers who have fallen as a result of the actions we have taken as a nation to address 9/11 in the fight against terrorism. I do not believe we should devalue the most heroic sacrifices of our men and women in uniform by making this cover anyone in uniform.

Mr. President, I do intend to oppose this amendment.

I have 5 minutes before 1:45 p.m.

AMENDMENT NO. 356

Mr. President, I also rise to oppose the amendment to fill the pay gap when Guard and Reserve are mobilized. This is the Durbin amendment. This emergency supplemental bill is not the proper legislative vehicle to add new benefits without approval of the committee of jurisdiction. The Senate Armed Services Committee, I am told, does not support the inclusion of this new benefit in our supplemental bill. The administration did not request that additional authority, and I am told it opposes this amendment. The proposed amendment, I believe, should be held for debate when the appropriate committee, such as the Armed Services Committee, brings the authorization bill before the Senate.

The amendment to this bill would require Federal agencies to pay any difference between military pay and civilian compensation for employees of the Federal Government who either volunteer or are called to active duty. The estimate we received from the Congressional Budget Office is this is an additional cost of $152 million over a 5-year period.

Reservists and guardsmen know when they are activated what their military pay will be, what their total compensation is. There is no misunderstanding about that. In an all-volunteer force, individuals choose whether they serve in the military. Certainly financial considerations enter into that decision, whether their service be full time or part time, with an obligation to answer the call of duty when necessary.

When Guard and Reserve members train for mobilization, they understand they are subject to mobilization during war and national emergencies. The likelihood of mobilization is evident as the Department has been mobilizing Guard and Reserve members almost continuously for the past 13 years.

More importantly, this provision would do a disservice to patriotic non-Federal reservists who are self-employed, small businessmen, or employees who do not receive such coverage as proposed by the Durbin amendment.

In addition, the amendment would allow mobilized reservists to make significantly more than those active-duty service members whom they join when they are called up to serve in active duty. This could be interpreted by some active-duty members to mean that the Federal Government places a higher value on the service of those people who are called up temporarily than we do on those who are career military people. The amendment would cause a significant equity issue as far as the active-duty service members and I believe would negatively affect their morale.

Requiring the Department of Defense and other Federal agencies to pay the differential salary limits the ability of agencies to accommodate staffing shortages through temporary personnel actions. Once these people are called up, the Department has to hire someone temporarily to take their place. The place is there for them when they come back, but they will not have the ability to have the money available if they have to pay this differential. This issue becomes more significant the longer the period of active duty.

Another concern is that this amendment does not distinguish between Reservists who volunteer to perform active duty and those who are involuntarily called to active duty. Reservists who volunteer for duty can weigh the financial impact of such service when considering whether to apply for an assignment.

Finally, Reserve service offers a robust pay and benefits package. With the support of Congress, military pay is now very competitive with pay in the private and public sectors and allowances are increasing to minimize out-of-pocket expenses.

Any changes to Guard and Reserve compensation system should be assessed for the long term, not just during this current deployment. Questions regarding affordability and equity of benefits must be carefully weighed and answered before we legislate changes.

This appropriation bill is not the appropriate legislative vehicle to set military compensation policy; this change should be considered by the Armed Services and Governmental Affairs Committees which have jurisdiction over these matters.

Thus, we strongly recommend that the Senate hold this authorization measure for full consideration by the Armed Services and Governmental Affairs Committees. The amendment deserves adequate time for analysis and debate in light of the full system of military benefits and funding constraints.

I strongly oppose this amendment.

Mr. BYRD. Mr. President, Senator DURBIN's amendment touches on a critical issue: the strains being placed upon the National Guard and the Reserve by the long deployments to Iraq and Afghanistan. He correctly points out that these deployments have resulted in a financial crisis for unknown numbers of American families who have loved ones called to duty, pulled out of their civilian careers, and sent half a world away for long periods of time.

The amendment pending before the Senate would compensate those members of the National Guard and the Reserve who suffer a loss of income because they are away from their civilian jobs—but only if those jobs are with the Federal Government. The many Guardsmen and Reservists who work in the private sector would not be helped by the amendment.

I am very sympathetic to the plight of the families of National Guardsmen and Reservists who have found themselves in dire financial straits because of a long, unexpected deployment that takes the family breadwinner away from his job. I have heard from families in West Virginia who could be facing financial ruin because of a soldier's drop in income due to a protracted, 18-month deployment.

However, the Congress is approaching this problem from the wrong end. The heart of this matter is not how much Uncle Sam may pay our citizen-soldiers. The problem is that our National Guard and Reserve are being deployed, and re-deployed, for such long periods at a time. The United States hasn't sent so many part-time soldiers overseas in half a century. In addition to causing financial hardships for many American families, the pace of these deployments is threatening to break the back of the National Guard and the Reserve.

In 2003, I offered two amendments to limit the deployment and re-deployment of the National Guard and Reserve. Unfortunately, the Senate voted down those amendments, and the strains on the National Guard and the Reserve continue and, in some cases, are worsening. Until Congress limits the excessive deployments of our citizen-soldiers, or until our troops start coming home from Iraq, there will continue to be myriad strains on our troops and their families. It is not reasonable to expect the government to

compensate our troops and families for each difficulty or strain that this foolish war in Iraq has caused, because our national treasure is finite.

What's more, I am concerned that the amendment on which the Senate will soon vote will have financial consequences for many years down the road. Our country is neck deep in red ink, and Congress must be judicious in enacting benefits that grow to have a life of their own well after the Senate has voted. This problem is compounded by the refusal of the President to budget for the costs of the wars in Iraq and Afghanistan. If the White House does not budget for the war, there is no way to increase revenues or lower other spending in order to balance the budget. In the coming days of debate on this emergency supplemental appropriations bill, I will offer an amendment on this crucial point.

Despite these reservations about the pending amendment, the bottom line is that the families of many National Guardsmen and Reservists are experiencing real financial hardships. Although this amendment will only take care of some of those families, it will provide a lifeline to families who are struggling to make ends meet because of the demands of the war in Iraq. I commend the Senator from Illinois for his commitment to the National Guard, and I will support him on this amendment.

However, when the Senate next considers relieving the strains caused by the long deployments of the Guard and Reserve, the Senate should not adopt a piecemeal approach. The heart of the matter is our open-ended mission in Iraq. Unless that matter is addressed head-on, Congress will continue to find more and more ways to spend our nation's scarce treasure. That is not a wise fiscal course.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am disappointed that the Senator from Alaska, who has served the Senate and his country so well, now opposes this amendment. When it was last offered on an emergency supplemental bill on October 17, 2003, he joined with 95 of our colleagues in voting for this amendment. I think the amendment still is a valid amendment.

Let me explain what the amendment does. Seventeen thousand Federal employees have been activated into Guard and Reserve units. They find that when they go into this activated status, they are receiving less in income than they were paid by the Federal Government. The bill says the Federal agencies they worked for will make up the difference so as they are serving our country and risking their lives overseas they will have this pay differential, so their families will be able to keep the mortgage paid, pay the utility bills, and keep the family together.

The Senator suggests this is going to create some sort of a disadvantage to those in active military, but I am sure he feels, as I do, that companies across America that stand behind their employees who are activated in the Guard and Reserve are doing the right and patriotic thing by making up the difference in pay between what one is paid when they are home and what one is paid when they are in uniform. They are saying to this soldier: We are with you; we are with your family; serve your country and come back to your job; we are proud of you.

There is one employer at the top in America that does not do it. It is the Federal Government. The arguments are made on the floor today that if we stand behind these soldiers who are Federal employees, somehow it is a poor reflection on the rest of the military. That is not true. We revere and honor those who serve our country, active military, activated Guard, activated Reserve. Fifty-one percent of the activated Guard and Reserve take a cut in pay to serve America. What I am saying is if one is a Federal employee, for goodness sakes, they ought to have their salary made whole. Why should they go overseas, worrying about whether they are going to get hit by a bullet, step on a landmine or hit by a rocket-propelled grenade, and whether their spouse can pay the bills at home for tuition for the kids? Why do we not stand behind these soldiers who are serving? We are out there on the Fourth of July waving our flags, but, for goodness sakes, we have a chance to stand behind them today on the Senate floor. It is absolutely shameful that the Federal Government will not provide the same kind of pay protection for our activated Guard and Reserve that over 900 private businesses, State and local governments, have provided across America. We honor them.

The Secretary of Defense has a Web site to honor the fact that they are standing behind the soldiers, but we do not do it. The Federal Government does not do it. This is our chance to make a difference.

Also, on the Kerry amendment, I disagree with the Senator from Alaska. To think that if someone is on a troop plane headed over to Kuwait and, God forbid, it crashes, they are entitled to $12,000; however, if they get off the plane and are killed in combat they should be entitled to $100,000—I think they are heroes in both instances. Senator KERRY is suggesting we should regard them as such. I think his amendment is a valid amendment and, yes, it does cost money. It costs money to stand behind our veterans, our soldiers, and their families. That is part of the real cost of war. That is why I urge my colleagues to vote for this amendment. The amendment I am offering today passed 96 to 3 when last called. It passed by a voice vote after that. It has the support of the Reserve Officers Association, the National Guard Association of the United States, and the Enlisted Association of the National Guard of the United States. These organizations represent the men and women who are risking their lives in Iraq and Afghanistan, and are asking for basic fairness from the Federal Government. I think this amendment is long overdue.

For 3 years now, this amendment has been lost in conference. It passes on the Senate floor and disappears, and Federal employees activated to serve our country wonder what happened. Well, today we will have a chance with this rollcall vote to see if we want to stand behind these men and women in uniform. This is an amendment that is long overdue.

I ask unanimous consent that Senator SALAZAR of Colorado be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I suggest the absence of a quorum, before a vote is called.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that we each have 1 more minute.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish to address the Senator from Illinois because every person the Senator has mentioned in connection with Senator KERRY's amendment is covered. All the people on an airplane going to combat are covered. Any training-related combat, they are covered. The question is whether people who stand side by side with someone in the Pentagon working daily in uniform, a civilian person working the same job, whether one should be covered in the event of death and the other should not, whether one should be covered while driving home here in Washington, DC, after drinking too much, gets in an automobile accident, and get the same benefit a fallen hero gets. I ask the Senator if he would consider in connection with his amendment eliminating a request for the yeas and nays and we would be glad to accept that amendment.

Mr. DURBIN. I say to the Senator, if I had not lost this amendment twice in conference after it passed the Senate, I would agree to that, but I think we need a record vote. I do not know what it takes to finally get this Senate to go on record and stand by the Senate position in conference. Twice now we have taken this proposal to conference and it has disappeared, with the White House or Department of Defense or somebody opposing it. If we have a record vote, I think we have a much better chance to say to the conferees, for goodness sakes, the third time, let us stand up for these men and women.

I am sorry; I want to insist on the yeas and nays. I believe that is the only way to make it clear where we stand on the issue and to convince the conferees to finally stand for the Senate position if it succeeds.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I move to table the Senator's amendment.

Mr. COCHRAN. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER (Mr. SUNUNU). Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—39

Allard	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Frist	Murkowski
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Burr	Hagel	Smith
Chambliss	Hatch	Stevens
Coburn	Inhofe	Sununu
Cochran	Isakson	Talent
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich

NAYS—61

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murray
Allen	Durbin	Nelson (FL)
Baucus	Enzi	Nelson (NE)
Bayh	Feingold	Obama
Biden	Feinstein	Pryor
Bingaman	Harkin	Reed
Boxer	Hutchison	Reid
Byrd	Inouye	Roberts
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Salazar
Chafee	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Coleman	Kohl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stabenow
Corzine	Leahy	Thomas
Dayton	Levin	Warner
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Dole	Martinez	

The motion was rejected.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. The yeas and nays have been ordered on the underlying amendment. I ask the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Durbin amendment.

The amendment (No. 356) was agreed to.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. We have under the order a vote, now, on two Kerry amendments, Nos. 333 and 334. Is there time for debate?

The PRESIDING OFFICER. Under the previous order, there is 2 minutes to be evenly divided on each amendment.

Mr. KENNEDY. Mr. President, I am delighted to join my colleague in sponsoring these amendments, which will increase the death gratuity from $12,000 to $100,000 for all service members killed on active duty, and allow their dependents to continue receiving the basic housing allowance for a full year instead of the 180 days in current law.

All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their missions. But we also need care for the families of these courageous men and women who make the ultimate sacrifice.

Any service member's death is tragic, whether in combat overseas or a training accident here in the United States. They are heroes, not victims. These brave men and women came forward to serve our country knowing what the dangers were and knowing the possibilities. They stood tall when the country needed them.

Their case is a tragedy, and so is the void left behind for their loved ones.

We know what happens when a family is notified of a death. There is a knock on the door. They open the door and a military officer is standing there to give them the most dreaded news they will ever receive. Details are few and typically only include the time and place of the death, and perhaps some brief words on how it happened. A few days later, he provides them a death gratuity check for $12,000 and helps them through the process of making the funeral arrangements while the flag draped coffin is on the way home.

After the burial, the conversation turns to additional funds and benefits. The topic often has to be pressed by the officer, because the families, so burdened, seldom think in terms of what their benefits might be. They slowly realize that instead of having a constant breadwinner for many years, they receive only a modest monthly sum.

The burden of combat deaths falls most often on the junior enlisted personnel, whose average yearly wages can be as low as $17,000. The actual benefit depends on number of children and other specific circumstances, and decreases over time because of age or a child's status as a student.

The current Senate bill uses the administration's formula to achieve a $500,000 threshold, and includes some noncombat deaths, but not all of them. The bill, for example, provides a $100,000 gratuity to survivors of those killed in training accidents. But it retains the current $12,000 gratuity for other types of deaths, such as those who collapse during strenuous exercise or are killed in an accident driving to work. It is distinction without a difference for the family of the service member who died. They know only that their loved one went to work to help prepare their fellow soldiers, marines, sailors or airmen for battle and will never return. In today's military, all jobs and stations are equally important.

Our amendment eliminates any distinction between combat and non-combat deaths and provides a death gratuity of $100,000, regardless of where or how a service member dies.

Along with other provisions of the bill, the amendment would increase the total death benefit to $500,000, depending on the amount of military life insurance a person carries.

No one can ever put a price on a human life, but there is no doubt that current levels are unacceptably low.

It's also very important to extend the length of time for surviving widows and children to remain in military housing to a full year, either on base or with housing assistance.

Currently, surviving spouses and dependents of military personnel killed on active duty may continue in their military housing or receive their military housing allowances for up to 180 days after the death of their loved one.

Their loss is traumatic enough without the immediate pressure of having to find a place to live, moving, and disrupting their life all over again. Extending the length of time for survivors to stay in military housing gives them greater flexibility as they struggle to deal with what has happened. Children will be able to finish the school year among friends and in familiar surroundings.

We know we can do much more to take care of military families after the loss of a loved one. We have been complacent for too long, and I urge my colleagues to support us in providing this much needed and well-deserved relief to these courageous and suffering families.

Mr. KERRY. Mr. President, point of inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 333

Mr. KERRY. Mr. President, it is my understanding the Senator from Alaska, or the manager, is prepared to accept one of the amendments, I think. Am I correct?

Mr. STEVENS. The Senator is correct; we are willing to accept the second amendment.

Mr. KERRY. Mr. President, that is amendment No. 334, which extends the period of time that spouses can remain on a base after their spouse has died in action.

Mr. STEVENS. Mr. President, that is amendment No. 334.

I ask unanimous consent that the rollcall be vitiated and the Senate adopt that amendment.

Mr. KERRY. Amendment No. 333.

Mr. STEVENS. Amendment No. 333?

Mr. KERRY. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor.

The PRESIDING OFFICER. To which amendment?

Mr. KERRY. To amendment No. 333 and amendment No. 334.

The PRESIDING OFFICER. Without objection, it is so ordered. The cosponsor will be added to both amendments.

Mr. STEVENS. Our records show it is amendment No. 334.

Mr. KERRY. Mr. President, there is confusion.

Mr. STEVENS. I am corrected; it is amendment No. 333.

The PRESIDING OFFICER. It is the understanding of the Chair, the amendment described by the Senator from Massachusetts is——

Mr. KERRY. No. 333.

The PRESIDING OFFICER. No. 333.

Mr. KERRY. Thank you.

The PRESIDING OFFICER. Does the Senator from Alaska wish to modify his unanimous consent request?

Mr. STEVENS. I have made the motion we vitiate the rollcall and accept the amendment.

The PRESIDING OFFICER. No rollcall has been ordered at this time. Without objection, amendment No. 333 is agreed to. The motion to reconsider is laid upon the table.

The amendment (No. 333) was agreed to.

The Senator from Massachusetts.

AMENDMENT NO. 334

Mr. KERRY. Mr. President, the second amendment is an amendment to raise the death benefit for those who die while in service to our country. Currently, it is $12,000 plus change. We want to take it up to $100,000.

The Senator is going to tell you that the Pentagon is opposed to this. Secretary Rumsfeld is opposed to this. The uniformed leadership at the Pentagon is overwhelmingly in favor of it.

Air Force GEN Michael Moseley said:

> I believe a death is a death and our servicemen and women should be represented that way.

Army GEN Richard Cody said:

> It is about service to this country and I think we need to be very, very careful about [drawing a] distinction.

And GEN Richard Myers, Chairman of the Joint Chiefs of Staff, said:

> I think a death gratuity that applies to all service members is preferable to one that's targeted just to those that might be in a combat zone.

Let me say to our colleagues, you can be driving a car and have a car accident in a combat zone, and you qualify for the upper level. But if you are serving on an aircraft carrier or elsewhere and you are training personnel, and you die from a catapult that falls or you have an accident, you do not get the same benefit, even as you are preparing to send troops to war.

That is wrong. We believe you ought to apply it according to the desire of the uniformed generals, which is to treat all members of the service the same say.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska.

Mr. STEVENS. Mr. President, respectfully, the Senator from Massachusetts is wrong. Those who die in training or other activities related to combat are covered by our amendment. We sought to recognize fallen heroes from the time they enter training for combat to go overseas. They are covered by our amendment. What this amendment does is it does not give us the opportunity to recognize those who put their lives on the line. We oppose this amendment because of that fact. We do believe there ought to be a distinction.

The Senator's amendment will mean, if someone right here in this district while in uniform drinks too much and dies while driving home, they are going to get this gratuity, the same gratuity the fallen hero should get. It is wrong to cover anyone in uniform with this type of allowance. We have increased the insurance for everyone in uniform. They can buy up to $400,000. But raising this from $12,240 to $100,000—it should go to those related to combat and in combat.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. Mr. President, I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 25, nays 75, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—25

Allard	Dole	Santorum
Bennett	Domenici	Sessions
Bond	Enzi	Shelby
Bunning	Frist	Stevens
Burns	Grassley	Thomas
Burr	Hatch	Voinovich
Cochran	Inhofe	Warner
Cornyn	Lott	
DeMint	McConnell	

NAYS—75

Akaka	Bingaman	Chafee
Alexander	Boxer	Chambliss
Allen	Brownback	Clinton
Baucus	Byrd	Coburn
Bayh	Cantwell	Coleman
Biden	Carper	Collins
Conrad	Jeffords	Nelson (NE)
Corzine	Johnson	Obama
Craig	Kennedy	Pryor
Crapo	Kerry	Reed
Dayton	Kohl	Reid
DeWine	Kyl	Roberts
Dodd	Landrieu	Rockefeller
Dorgan	Lautenberg	Salazar
Durbin	Leahy	Sarbanes
Ensign	Levin	Schumer
Feingold	Lieberman	Smith
Feinstein	Lincoln	Snowe
Graham	Lugar	Specter
Gregg	Martinez	Stabenow
Hagel	McCain	Sununu
Harkin	Mikulski	Talent
Hutchison	Murkowski	Thune
Inouye	Murray	Vitter
Isakson	Nelson (FL)	Wyden

The motion was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 334) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I want to thank my colleagues for having supported amendment No. 334 to extend the $100,000 death gratuity to the survivors of all who die on active duty.

I want the record to show what the amendment will accomplish and why what it accomplishes is important.

Current law provides $12,000 to all members of the military who die on active duty, regardless of circumstance.

Earlier this year, President Bush proposed increasing the death gratuity to $100,000 for those who die in Iraq, Afghanistan, or designated combat zones.

The supplemental legislation reported by the Appropriations Committee increases the death gratuity to $100,000 for those who die in combat and those classified under circumstances classified as warranting Combat Related Special Compensation, CRSC, if they had lived. CRSC was a compromise brokered a few years ago in lieu of concurrent receipt. Using CRSC, the $100,000 death gratuity would go to those who die ''as a direct result of armed conflict; while engaged in hazardous service; in the performance of duty under conditions simulating war; or through an instrumentality of war.'' For all others, the death gratuity remains $12,000.

My amendment is very simple. It changes the existing law to say $100,000 shall be paid in death gratuity under all circumstances in which $12,000 is now paid. It eliminates the provisions in the legislation that distinguish between the manner and place of deaths. It eliminates any connection to combat related special compensation. It does not extend the death gratuity to anyone who doesn't already receive the $12,000.

The amendment simply heeds the advice of the uniformed leadership of the military who said, unambiguously, that a death is a death is a death, and Congress should not try to parse them.

General Richard A. Cody, U.S. Army, said:

> It is about service to this country and I think we need to be very, very careful about making this $100,000 decision based upon what type of action. I would rather err on the side of covering all deaths rather than try to make the distinction.

Admiral John B. Nathman, U.S. Navy, said:

> This has been about . . . how do we take care of the survivors, the families and the children. They can't make a distinction; I don't believe we should either.

General Michael T. Moseley, U.S. Air Force, said:

> I believe a death is a death and our servicemen and women should be represented that way.

General William Nyland, U.S. Marine Corps, said:

> I think we need to understand before we put any distinctions on the great service of these wonderful young men and women. . . . they are all performing magnificently. I think we have to be very cautious in drawing distinctions.

Finally, General Richard Myers, the Chairman of the Joint Chiefs of Staff, said:

> I think a death gratuity that applies to all service members is preferable to one that's targeted just to those that might be in a combat zone.

I also want to note that the practical effect of my amendment is identical to the provisions of the House-passed supplemental. The underlying bill, H.R. 1268, passed the House on March 16, 2005, and in section 1113 it would require an equal death gratuity of $100,000 for all service members, regardless of the circumstance and location of their death. Like my amendment, it does not treat one military family differently than others.

Lastly, my amendment has been endorsed by the Enlisted Association of the National Guard of the United States, EANGAUS; the Military Officers Association of America, MOAA; the National Guard Association of the United States, NGAUS; the National Military Family Association, NMFA; the Reserve Enlisted Association, REA; and the Reserve Officers Association, ROA.

I thank my colleagues again for their support and look forward to working with them to hold this mark in conference.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 367

Mrs. HUTCHISON. Mr. President, I rise to speak against the Byrd amendment. It is my understanding that, after I speak and after Senator BYRD has a few minutes to respond, we will have a vote on this amendment.

The amendment put forth by Senator BYRD would take out $40 million requested by the administration in emergency funds to build a detection facility and security fence at Guantanamo Bay. I believe we must keep the $40 million to allow the Department to move forward to make better facilities at Guantanamo Bay, facilities that are more secure, and facilities that will make operations more efficient, especially in the use of guards.

Currently, there are about 545 detainees at Guantanamo Bay. About half of those are housed in three camps, which are built as temporary facilities. I have seen these facilities. Many of us have gone to Guantanamo Bay to look at them. They are basically walls made of chain-link fences. Of course, there is no climate control, and there is not very much room for exercise of detainees. Building the more permanent facility would provide a better, more secure facility, and facilities that are better housing units.

I think Guantanamo Bay is the perfect place to hold these types of detainees, many of whom are dangerous terrorists. I do not want these prisoners moved. I don't want them moved into facilities in communities in our country, on our shores, where they can pose a danger for our citizens and serve as a lightning rod for terrorist activity. Al-Qaida has shown that it will try to liberate—by force if necessary and with no regard to the loss of innocent lives—their fellow terrorists. U.S. forces in Iraq and Afghanistan have weathered such attacks and thwarted repeated violent escape attempts. Recent reports of tunnels, riots, and mortar attacks against detention facilities in Iraq have been well publicized in the press.

Do we want to move that to the lower 48 States in the United States of America? I don't think so. Having them on an island, where other terrorist attempts to free prisoners are much less able to be put forth, is the exact right place for these prisoners. I want to make sure that we have the best facilities possible and that we have the permanent facilities on an island in Cuba so that there is not as much capability to do harm to innocent Americans as there would be if we moved those prisoners to places on our soil such as Atlanta, GA, or Florida.

The detention facility that would be built will also reduce the number of required personnel. The current facilities require significant personnel to monitor detainees. A permanent facility would free 150 of them to perform other tasks in the global war on terror. It will be the same for the security fence; we could free up 196 people who are now guarding around the perimeter of Guantanamo Bay. So that is 346 fewer guards that would be needed if we had the permanent facilities.

It is very important that we keep the $40 million asked for by this administration to make better, more permanent facilities at Guantanamo Bay. I want them to stay on that island, not moved into the United States where we know terrorists are dwelling, we know they are looking for ways to attack our country. The last thing we want is for them to start moving into detention facilities to try to free prisoners and, in the process, harm innocent Americans or the people who are guarding those prisoners.

So I ask the Senate to vote this amendment down and give the administration and the Department of Defense the capability to house these prisoners in the most efficient way possible and certainly in a way that protects American lives to the greatest extent possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not know of any other Senators who intend to debate this issue. I would like to put an exclamation point on the statement made by the distinguished Senator from Texas though.

One thing that is clear, if we do not have a permanent facility there, an improved facility, we are going to have to keep more U.S. personnel there guarding and maintaining the security of this facility. If we use the funds the administration is requesting, approve the request the administration has submitted to the Congress, then we will be able to use a lot of the people who are there now for other purposes elsewhere in the war on terror to help better defend the country and make sure we are safeguarding the security interests of the American people.

This is not to help prisoners have a better deal, even though the facility will be more humane and easier to care for and to deal with, but it will be more secure, and it will help us reallocate resources that will benefit our national security interests. That is the point.

This is money well invested. The administration is requesting it. Our subcommittee chair supports it after reviewing the request. So I think the Senate should support the committee and what it has recommended and reject the Byrd amendment.

The PRESIDING OFFICER. Is there further debate on the Byrd amendment? The Senator from West Virginia.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, the Pentagon defends the current facilities for the incarceration of prisoners at Guantanamo as being safe, secure, and humane. There

is no emergency, unforeseen or otherwise, that requires the immediate construction of a 220-bed maximum security prison to relieve existing deficiencies at Guantanamo, and so it is premature.

That is part of the case I am making, it is premature. Why have this item in this bill? Why in an emergency supplemental bill? It is premature to ask the American taxpayers to spend $36 million—it is your money, I say to the taxpayers—to build a permanent maximum security prison at Guantanamo when the courts have not yet determined the legal status of the detainees at Guantanamo or have not determined whether the United States can continue to hold them indefinitely without charging them with a crime.

The prison population at Guantanamo is steadily declining, down to about 540 from a high of 750. The Department of Defense reportedly hopes to further cut the current population by at least half. However, DOD has not given a firm estimate of how many detainees it expects will require long-term incarceration.

Why all the hurry? The 220-bed prison is a guesstimate—a guesstimate—not an estimate.

The Department of Defense has already built one permanent maximum security prison at Guantanamo, a $16 million state-of-the-art facility completed less than a year ago that has the capacity to hold 100 prisoners.

Temporary detention facilities at Guantanamo include several camps in which prisoners are housed in individual cells with a toilet and sink in each cell, and one camp where detainees who are considered the least dangerous are housed in 10-man bays with all-day access to exercise yards.

The Department of Defense contends that these temporary facilities are nearing the end of their useful life, but the Department does not argue they are unsafe or uninhabitable.

The U.S. military has many urgent unmet needs, some of which are emergency status needs. Construction of a second permanent maximum security prison at Guantanamo is not among these urgent, unmet needs. This is a decision that should be deferred until the courts have resolved the legal status of the detainees at Guantanamo and until the Defense Department determines the number of detainees it expects to hold in custody for the long term.

What I am saying right now is the request is premature. Let us wait until the courts do their job. Then we will have a picture of what we need to do. Let us not be premature in spending the taxpayers' money when there are too many unanswered questions that ought to be answered and which in time will certainly present us with a clear picture of the permanent needs.

I thank the Chair and thank all Senators.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 27, nays 71, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—27

Akaka	Harkin	Mikulski
Baucus	Inouye	Pryor
Biden	Jeffords	Reed
Boxer	Johnson	Reid
Byrd	Kohl	Rockefeller
Carper	Lautenberg	Sarbanes
Dorgan	Leahy	Specter
Feingold	Levin	Stabenow
Feinstein	Lincoln	Wyden

NAYS—71

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dodd	Murkowski
Bayh	Dole	Murray
Bennett	Domenici	Nelson (FL)
Bingaman	Durbin	Nelson (NE)
Bond	Ensign	Obama
Brownback	Enzi	Roberts
Bunning	Frist	Salazar
Burns	Graham	Santorum
Burr	Grassley	Schumer
Cantwell	Gregg	Sessions
Chafee	Hagel	Shelby
Chambliss	Hatch	Smith
Clinton	Hutchison	Snowe
Coburn	Inhofe	Stevens
Cochran	Isakson	Sununu
Coleman	Kerry	Talent
Collins	Kyl	Thomas
Conrad	Landrieu	Thune
Cornyn	Lieberman	Vitter
Corzine	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NOT VOTING—2

Dayton	Kennedy

The amendment (No. 367) was rejected.

Mr. COCHRAN. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 372

Mr. CORNYN. Mr. President, I call up my amendment numbered 372, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 372.

Mr. CORNYN. I ask unanimous consent the reading of the amendment be dispensed with.

The amendment is as follows:

(Purpose: To express the sense of the Senate that Congress should not delay enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) our immigration system is badly broken, fails to serve the interests of our national security and our national economy, and undermines respect for the rule of law;

(2) in a post-9/11 world, national security demands a comprehensive solution to our immigration system;

(3) Congress must engage in a careful and deliberative discussion about the need to bolster enforcement of, and comprehensively reform, our immigration laws;

(4) Congress should not short-circuit that discussion by attaching amendments to this supplemental outside of the regular order; and

(5) Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

Ms. MIKULSKI. Mr. President, I realize the Senator from Texas has been recognized to offer his amendment. I ask unanimous consent I be permitted to offer my amendment after the Cornyn-Feinstein amendment.

Mr. CORNYN. Reserving the right to object, I have no objection to that request. I note that Senator FEINSTEIN, who is also joining me as a cosponsor on this amendment, would like to speak following me. Senator ISAKSON would also like to speak. I ask unanimous consent they be recognized.

Ms. MIKULSKI. Withholding the right to object, I have no objection to how long you wish to speak on your amendment, Senator. I wanted to be sure I got to offer my amendment this afternoon.

Mr. CORNYN. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Maryland will be considered after the amendment of the Senator from Texas.

Mr. CORNYN. I thank the Senator from Maryland for working with us.

This amendment is a sense of the Senate that Congress should not delay enactment of the supplemental appropriations bill by attempting to conduct a debate about comprehensive immigration reform at this time.

As I made clear, along with Senator KYL and others on this point, I am for comprehensive immigration reform. It is long overdue. It is something in the regular order we are going to consider, both in the Subcommittee on Immigration, Border Security, and Citizenship, which I chair in the Judiciary Committee, but also I have talked with the chairman of the full Judiciary Committee, Senator SPECTER, and he has

advised me that once we complete our work—hopefully in the next couple of months—he would give us an expedited markup in the full committee.

On a subject so complex and potentially divisive as comprehensive immigration reform, it is appropriate we take up this issue as we would most complex issues; that is, by the regular order. It is particularly important we do so in light of the subject matter of the present legislation in the Senate which is an emergency supplemental appropriations bill that should be passed without undue delay so our men and women in uniform can get the resources they need, including the equipment to do the job we have asked them to do and which they have so heroically agreed to do on our behalf in the war on terror.

I confess there are many good proposals out there with regard to immigration reform. The Senator from Maryland has a proposal on H–2B on which there will be some agreement; some people will agree with it. The distinguished Senator from Idaho has a bill called the agriculture jobs bill which will attempt to create a workforce that can work in the agricultural industry. I have some problems with the details of that bill, but in the main it is a well-intentioned effort to try to deal with part of this problem.

I say ''part of this problem'' advisedly. Rather than try to deal with this issue on a piecemeal basis, it is important we enact comprehensive reform. For too long we have simply ignored the fact our borders are not secure, that once people get past the border they literally can melt into the landscape. It has resulted in the current untenable proposition that there are about—no one knows for sure—10 million people who have come into our country outside of our laws. We need to deal with that, particularly in a post-September 11 environment, by addressing the security concerns, by restoring our reputation in this country as a nation that believes in and adheres to the rule of law but also in a way that is compassionate and deals with the economic reality involved where approximately 6 million of those 10 million people are currently in the workforce, many performing jobs American citizens simply do not want to perform.

It is not because I disagree with the general intent of immigration reform that I speak in favor of this resolution, which says we ought to take up this matter but in the regular course and on another day.

It is mainly because I do not want to see, nor do I believe any Senator on the floor or in their office or elsewhere would want to see us get bogged down and diverted in an immigration debate that, frankly, I do not think we are yet ready for, and at a time which I think could well damage our long-term prospects at getting comprehensive immigration reform passed, but particularly in a way that is calculated—let me change that word; it is not ''calculated''—the result likely would be that we would slow down and perhaps bog down this emergency supplemental appropriations bill to equip our troops with what they need.

So this resolution suggests, in the last paragraph, that:

> Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

I commend this to all of our colleagues. I express my appreciation in particular to the Senator from California, Mrs. FEINSTEIN, for working with us. We both serve on the Judiciary Committee and believe this is an important issue. But it needs to be handled in the regular course that would not divert us from the immediate task at hand, which is to make sure our troops have the resources they need in order to complete the job we have asked them to do on our behalf.

Mr. President, with that, I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Texas for authoring this sense-of-the-Senate amendment. I am proud to be a cosponsor. I agree with all the comments he has made. I believe it is a huge mistake to bypass the Judiciary Committee, to bypass the Immigration Subcommittee on bills that are big in their ramifications on the United States of America.

If we do that, we will get into a debate on the floor on the AgJOBS bill. I think very few people know, for example, that the way the bill is written you can have two misdemeanor convictions and essentially still get a temporary green card. That can be misdemeanor theft. That can be misdemeanor battery. That can be misdemeanor drugs. I will have an amendment to address that. I will take some time with it.

Most people do not know you just have to have 100 hours of work in a 12-month period. I will have an amendment to address that, and there will be other amendments to address that. But this is a very controversial bill that can have a huge impact on the number of people coming across the border. At the very least, it should have a markup in Judiciary. We should have an opportunity to make amendments in Judiciary before it comes to the floor of the Senate as an amendment on an appropriations bill.

There is also the REAL ID bill, which very well may come up. Senator MIKULSKI has an amendment on H–2B. I am concerned about it because it does not have a cap on the number, and the H–2B quota has been reached. I believe it is 66,000. Maryland has some problems, which are valid problems, I am sure. But just to open the bill, unless there is a specified number—I think we need to discuss it.

I will bring up the State Criminal Alien Program for reauthorization. This is paying back the States for their costs of confinement of illegals who commit felonies and misdemeanors and go to county jails and State prisons. So it will open a long and complicated debate on the floor of the Senate. We should not do that. Please. I have sat as a member of the Immigration Subcommittee now for 12 years. I come from a big immigration State, the largest, no doubt about that, in America, a State with very deep concerns.

I understand the agricultural labor needs of the States as well as anyone. And not to be able to have a markup, not to be able to make amendments in a committee and present a bill that has been scrubbed, amended, and is ready for prime time, I believe, is a huge mistake.

So I am very pleased to support the Senator's amendment. I will have another amendment in due course in this area as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I stand at this moment to very cautiously oppose the resolution and to express my reason. I say ''cautiously'' because of my respect for the Senator from Texas and respect for the Senator from California and all of the work they are putting into immigration and the need for comprehensive reform.

None of us in the Senate argue about it, but we certainly are willing to talk about it. In fact, we have talked about it now for 1,201 days since 9/11. Mr. President, 9/11 was that day of awakening when we found out there were millions of foreign nationals in our country without documentation, and some of them were here with evil intent. Not many but some. Most are here and hardworking.

Tragically enough, because of the character of an obsolete package of immigration laws, they are living in the back streets and shadows of America. They have no rights. They work hard. Many of them take their money back to their birth country. Some of them attempt to stay. That is where we are. We all know that.

The Senator from California has talked about the numbers. Her State has a very big problem. I hope we can get into that debate.

Let me also talk about the timing of it. I think you are going to see, if it is extended, only those who would want to extend the time of this debate. The issue of the Senator from Maryland is a very small, sensitive, important debate. It is very time sensitive. That law should have been in place the first of April so the hires could have gone forth at the first of May. In my State, the resorts open June 1. It is critical that workforce be in place by June 1.

Comprehensive debate, according to the Senator from Texas, should probably take place late summer, early fall, when they have finally done their

work. I do not criticize them for that. But I must tell you, long before 9/11 I was looking at the very tragic situation of American agriculture. American agriculture has admitted openly that they have a very large problem. It is quite simple. The Bureau of Labor and Statistics will tell you the workforce may have as many as, well, 1.6 million workers, and 70 percent of them are not documented and therefore, by definition, illegal. By surveys alone, the workers admit it. Yet we now say: Gee whiz, we will talk about it now.

It is too late now. It can't be done now. It is time sensitive to the industry, very time sensitive to the food on the shelf of the American consumer, time sensitive to humane support of those who toil in our fields.

No, there is never the right time. And, oh, about this supplemental, this ''urgent'' supplemental—I am sorry, I do not mean to criticize the Senator from Texas—we have been urgently working on this for 2 months. That is how long ago the President proposed it, 2 months ago. We will have this on the President's desk by the first of May. That is when they want it. We do not need to debate immigration for 4, 5 days unless the Senator from California wants to drag it out.

There will be amendments on the floor of the Senate to my bill, and there should be. It is open for amendment. I would hope I could convince Senators to take it as it is. It has had hearings before the Judiciary Committee. It is well vetted. It has been 8 years in the crafting. Last year, I had 509 groups supporting it. This year I will have 600.

This issue's time has come, and it is time the Senate deal with it openly and forthrightly. I was willing to step back for a moment. I told the leader so. The leader worked on it but could not put that package together. I will be on the floor of the Senate later today, hopefully, offering my amendment. It has been filed at the desk. We can deal with this in a day, unless there are Senators who want to drag it out by throwing in amendments that ought to go in the substantive comprehensive package that the Senator from Texas, chairing the committee, is working on and attempting to do at this moment.

A comprehensive bill? You bet. Rifle shots, targeted? You bet. We have to do it now and should do it now—H–2B, H–2A, critical to Americas's workforce and food supply now, not this fall or this winter or next year. We almost collapsed the raisin industry in the Central Valley in California last year. Why? Because Social Security was doing its work and checking Social Security numbers. And 72 percent of them were mismatches. That is a phrase for ''illegal.'' The Senator from California knows it. She has admitted she has a major problem in the heart of America's agricultural food basket.

Shame on us for not having the time to deal with the problem and deal with it forthrightly, honestly, and fairly. I am willing to subject my work to amendments, if the Senator from California wants to bring all of the amendments she can. I would hope she would target it to those specific two, the AgJOBS bill. She is right about misdemeanors, but I am only following the current Federal law, the current law for immigration. I haven't changed it at all. If she doesn't like it, she will bring amendments, and maybe we can adjust that a little.

I have worked with the Senator from California. I am not disagreeing with the premise of some of her arguments. But if she wants to throw the whole baby in with the bath water, then she had better be careful because she will collapse her agricultural economy if we make a misstep.

We are doing something right now that is critical to America and to America's culture. We are trying to control our borders. We are trying to apprehend and deport those in our country who are illegal. We ought to do that. I have voted for everything along the way. But as we work to get all of this done and clean up the inheritance of the last 20 years of bad law or law that wasn't enforceable—and we learned all about it in a post-9/11 environment—we have to remember one thing: As we do the right things, we have to do all of it the right way or we will collapse certain segments of America's economy because we destroyed the workforce that is out there at this moment, toiling in America's agricultural fields or in America's processing plants, working hard to take money home to their children and wives—not here, dominantly in Mexico. Some here.

That is the reality that I bring to the floor, and I am very willing to debate. I hope we can get into that debate later on today.

When you think about the Cornyn-Feinstein resolution, that this is not the right thing, then when is it? Twelve hundred days from now, 1,300, 1,400 days from the day that America awoke to the problem as America's people were killed and our trade center fell and our Pentagon was attacked? That is the reality. We are doing all the right things. We are moving in the right direction. But let's make sure that as we do, we do it in a package that doesn't start collapsing segments of our industry or mistreating people who work hard for themselves and for the American economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I thank the Senator from Texas for allowing me a few moments to speak about this issue.

If we read the preamble to this proposed amendment, it says it is a sense of the Senate that the Congress of the United States should not delay the appropriation to our men and women in harm's way by having a debate over immigration policy. It could just as easily say it is the sense of the Senate that the Congress should not delay a comprehensive immigration reform debate which is the reason we have the problem today.

I have a great respect for the Senator from Texas. I understand why this amendment has been put together because, as the Senator has said, there are a lot of us who have been trying for 3 or 4 days to figure out a way to bring about a meaningful debate on comprehensive immigration reform. I am taking this opportunity because I want to make points not on behalf of the Senator from Georgia but on behalf of the 9 million people in Georgia I represent.

Those points are as follows: REAL ID is not an immigration issue. It is a national security issue. By the time we get to the end of this debate and the conference, it should be a part of this package.

No. 2, I have the greatest respect for the Senator from California and the Senator from Idaho and the Senator from Texas and the distinguished chairman of the Judiciary Committee, the Senator from Pennsylvania. I wouldn't disregard for a second the amount of work that has gone into the comprehensive immigration laws of this country, trying to bring about fundamental change. However, as of this date, in the 3 and a half plus years since 9/11, the Congress has done little to address some major issues. For a second, I would like to address them.

As I do, I want you to know I am a second-generation Swedish American. Because of this great country, my grandfather emigrated in 1903 in the potato famine. My father was born in 1916. My grandfather wasn't naturalized until 1926. Because of this Constitution, I am in the Senate today. I respect the legal immigration process. I also despise those who tend to judge books by covers and categorize people by their ethnicity or their look or say: They are an illegal alien. We have delayed so long in dealing with securing our borders, enforcing legal immigration and seeing to it there are consequences to bad behavior, the American people have lost confidence in the government to actually do what the Constitution expects us to do.

Think about a few things for a second. We have talked about agriculture. We are spending money enforcing the adverse effect wage rate on the onion farms of south Georgia. We are spending money enforcing a law that actually would induce a farmer to think about hiring undocumented workers rather than documented workers because it is going to cost him $2, $3, or $4 an hour more to hire the documented worker, and we don't have the enforcement people to enforce our borders. How in the world can we justify trying to enforce that which induces the wrong thing to happen?

We have seen our health facilities, our educational facilities—I chaired the Georgia Board of Education. I

spent more time providing Spanish-speaking teachers for our State, and bilingual programs, which I am proud of. I want to educate every one of them. I helped write No Child Left Behind. But as the flood and the flow continues and the suspicion continues that we fail in Washington to recognize the crisis we have in this country, a crisis that is causing some of our citizens to take actions that worry me deeply, it is my responsibility on the floor of this Senate to represent the people of the State of Georgia.

I respect the Senator from Texas and this amendment. I understand why it is here. If we get about the business of a feeding frenzy, of taking some of the points I have mentioned and the Senator from Idaho has, we may delay, but somehow, some way we need to send the American people the clear signal we get it. We are going to have comprehensive reform. We are going to have a comprehensive debate, and it is going to be sooner rather than later.

I will disagree, I am sure, as will others with me, on where we need to go. But disagreeing on how we get there and getting there are two different things. We no longer have the luxury. Our States, our school systems, our hospitals, our farmworkers, and our people no longer have the luxury or the patience for us to delay any longer.

In my State of Georgia, there is an old saying: If you want to get the mud out of the stream, get the hog out of the spring. Procrastination on dealing with the delicate and difficult issues of comprehensive immigration reform have muddied the water in America and will do great harm if we don't hurry up and take the 8, 3, 4, and 6 years of work that has been done in committees and move forward with comprehensive reform.

I believe the Senator from Texas is trying to use this as a foundation for that to happen. I understand the Senator from Idaho's frustration which I have shared. I hope if my remarks contribute anything, it will be to send a message: Regardless of whether we agree on the specifics, let us no longer delay in dealing with the single largest domestic issue to the people of the United States and that is comprehensive immigration reform and rewarding legal immigration and getting our arms around illegal immigration.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wanted to make a brief response, both to the Senator from Georgia and the Senator from Idaho. One of the reasons why I think it is so difficult to look at a broken immigration system is because our immigration system is so big. America takes more immigrants in its regular immigration quota a year than other industrialized countries put together.

If you take that and you take all of the other programs, H–1B, H–2B, the L visas, and all these other visas, it adds up to about 5.5 million people a year who come into our country under one visa or another. It is an enormous job to look over this whole breadth and scope of immigration programs and make the necessary changes.

I think one logical change is if a quota of people coming from Mexico is perhaps too small, people have to wait too long; therefore, there is a huge illegal immigration problem. Nonetheless, we are a nation of laws. If we have the law, we should follow the law. So I am one who believes reform should be done, but in the name of reform I don't believe we should pass a bill quickly on an appropriation bill without going through the necessary steps to adjust it and amend it in the committee.

Let me make a point in response to the Senator from Idaho, and I am pleased that he is a great expert on California agriculture. Since he is, he will know that the great bulk of the workforce is illegal. That workforce has been there for a very long time. I would accept a bill that provided for some adjustment of a workforce that had worked in agricultural labor for 3 years, that had been in California doing it, could show prior work documentation and be vouched for by employers.

According to this bill that we are going to have on the floor—and I assume people feel it is going to sweep through—you only have to work for a hundred days—that is, 575 hours—in 12 months and you are eligible for your family coming, for a temporary green card; and then if you work another time, you get a permanent green card.

Well, this is going—mark my words—to be a huge magnet. When I discuss this with people, they say: There is an eligible date. Look at it here. Do you think people across the border know the eligible date? All they know is they have to be here and work for a hundred days, so come on over. They come over and you cannot find them and they don't go home. What happens is the numbers build up, the people in southern California find people camping in their backyards, in their gullies, and in the parks; there is no housing, the schools are overcrowded, and then people go to the ballot with an initiative. That is what happened in 1994 when proposition 187, unconstitutional as it was, passed. Polls show that if put on the ballot today, it would most likely pass again.

So I have tried to be constructive. I have proposed amendments that have been rejected by the authors in the House and the Senate. I am on the Immigration Subcommittee. Why do any of us serve on a subcommittee, then, if a bill of such enormous dimension—this could be the largest immigration program in history. It could bring millions of people into this country. The workers, their spouses, their minor children are all permitted.

We should know what we do. Now, a hundred days of work, 575 hours of work—if I were on the other side, I would say I can sneak across and get a hundred hours of work, then I can bring in my family and I will have a green card. It is nirvana.

For my State, it is perhaps different—Texas might be the next State, and then Arizona—in terms of sheer numbers and problems. When the President proposed his plan, let me tell you that apprehensions at the border in February went up 14.2 percent; the next month, March, 57.8 percent; April, 79.6 percent. So the call was out there, and people thought, aha, and they tried to come across the border to get into the country. The same thing will happen.

That is why it is important that we figure a way to prevent that from happening. I will provide for an adjustment of status for people who have worked in agricultural labor for a long time, for a substantial period of time.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. For a nice question or a mean one?

Mr. CRAIG. I have never been mean to the Senator from California, nor has she to me. She obviously makes very important points. None of those have been disputed and none of them have been dismissed out of hand. California is a unique situation. Texas is a unique situation. My State of Idaho has a large number of undocumenteds during the year, but it is equal to one county in the Central Valley of California. I understand that.

I don't understand California agriculture as well as the Senator from California, but I spent a good deal of time down there because I work on a broad variety of issues dealing with California and water. California has a very real problem. The Senator has a right to be concerned and alarmed. Any amendments she would wish to offer that are viewed as constructive I will take a very hard look at to make sure that what we do works.

Yes, we have a January 1, 2005, date. I will not get into the details of my bill. We will debate that. So the rush of the border would already have had to occur. But it hasn't. It has increased simply because there is a demand for workers in this country.

If the Senator wants to help me shape that more, I am willing to listen to that and see what we can do with amendments that deal with the misdemeanor issue she is concerned about and a time certain. None of us wants to create a rush at the border. What we want to create for California and the rest of the country is a legal workforce that is there, real, and honors those here for 3, 4, 5 years, who are married and have families here. We say: Go back to Mexico, and you may get back across the border.

Mrs. FEINSTEIN. Mr. President, I think I have the floor. I was waiting for the question.

Mr. CRAIG. The question is quite simple: Offer your amendments, and I will take a serious look at them. You make very important issues for your State and many other States, and I

hope you will do that in a fair and responsible way, as you have always been on this issue.

Mrs. FEINSTEIN. I thank the Senator.

Mr. CHAMBLISS. Will the Senator yield?

Mrs. FEINSTEIN. Yes.

Mr. CHAMBLISS. Mr. President, I happen to agree with her 100 percent. She is exactly right. Not only are we going to see a flood of illegals coming across in greater numbers than what we have today, we are going to see status under the AgJOBS bill, which is pure and simple amnesty. But you are also going to have somewhere between 8 million and 13 million illegal aliens who are here today having the opportunity to become legalized. Just the fact that we don't know, as the Senator has alluded to, how many there are, with the difference being between 8 million and 13 million, that tells you how big the problem is.

So I happen to agree with her, and I will simply tell her we are going to have an alternative—Senator KYL and I—to the AgJOBS when we get to that. The Senator is exactly on target relative to these folks who are going to line up at the border.

Mrs. FEINSTEIN. If I may conclude my discussion, and then I will yield the floor to Senator CRAIG. He mentioned raisins. The last time I looked, it took 40,000 workers in California to harvest the raisin crop in 4 different counties. Most of these are illegals. Most of these have done it year after year. They also go from crop to crop to crop, as we know.

The key is to take care of, in my view, the people who are already here and working and are a part of this. The demand for the agricultural jobs comes every time the employer sanctions are carried out. Then suddenly the agricultural industry says we are for bringing more people in from other countries. I think we have to find a way to have a workforce that is known, identifiable, reasonably and well paid, that can get housing, can send their children to school, that work in this industry. Probably one-half of the agricultural workforce—I would say 600,000 workers—is illegal. These are the 600,000 who I believe we should be concerned with—not opening the border to bring in more but to find a way that they then can become a responsible part of the workforce. That is where I am, because I admit that is a need.

This bill does not do that. This bill sets up a different program and does not relate to people who have been here for years working in agriculture. They may be very good citizens. They probably are. Some of them own their homes, they have children, they are responsible. They have a tough life, true. I think this can be handled. But what has happened is there is a set mentality that the bill has to be this way because we have 60 votes, and we are going to keep it this way. That is a problem and, therefore, that mentality does not let it go through Immigration, does not let amendments have exposure in committee.

Virtually everybody here who is arguing is a member of the Judiciary Committee. That is where we ought to be debating it instead of on the floor passing a piece of legislation of which no one—no one—knows the absolute effect.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Arizona.

Mr. KYL. Mr. President, before the Senator yields, may I ask two quick questions? Will the Senator from California respond? First, the Senator from California is the ranking member on the Terrorism and Homeland Security Subcommittee of the Judiciary Committee, which I chair; is that correct?

Mrs. FEINSTEIN. That is correct.

Mr. KYL. Mr. President, let me ask the Senator another question. She talked about the probability of thousands and thousands of illegal immigrants being attracted to come into the country who are not here now. The Senator from Idaho said we will have a cutoff date.

Was the Senator from California, in raising that concern—which I believe to be an absolutely legitimate concern—perhaps talking about section 101(D)(1)(c) of the bill of the Senator from Idaho which actually invites former lawbreakers to return to the United States? In other words, illegal immigrants who have formerly worked in U.S. agriculture.

Mrs. FEINSTEIN. Mr. President, can the Senator give me a page?

Mr. KYL. I do not have the page. It is a section that permits former immigrants, who worked here illegally in agriculture but have since returned to their home, to return to our southern border and apply for the special status that is set up in the bill the Senator from California described earlier in order to file a preliminary application for status as temporary permanent resident if they appear in designated ports of entry with an application that ''demonstrates prior qualifying employment in the United States,'' and then could be granted admission to the United States by the Department of Homeland Security.

That is question No. 1. Is that one of the areas in which additional illegal immigrants would be attracted to come into this country?

Mrs. FEINSTEIN. Absolutely. Additionally, this bill gives this special temporary green card to people with two misdemeanors on their record. I have discussed this with the authors in the House, and they do not want to amend it. My own view is there should be no misdemeanors. Why should somebody who broke a law coming here be able to break two more laws and get special consideration? We all know misdemeanor laws vary. We know there are misdemeanor drug laws, there are misdemeanor battery laws, misdemeanor theft laws, misdemeanor driving under the influence—there are all kinds of criminal misdemeanors. To say someone who broke the law who came here illegally, who was illegally employed, can have two misdemeanors on their record and have a special status is something I do not understand. Yet I have implored them for a substantial period of time, and they do not want to change.

If we had a chance to discuss this in the Judiciary Committee in a markup, this would be brought out, and we could debate it back and forth. People could say why they want it, we could say why we do not think it should be included, and there would be a vote. At least a bill would have been vetted by a committee process.

Mr. KYL. Will the Senator from California yield for another question?

Mrs. FEINSTEIN. I will be happy to yield.

Mr. KYL. Under the provisions we talked about before, which would attract any number of illegal immigrants—and by the way, that is not a term I throw around negatively because they would, in fact, have to say they were illegal immigrants in order to gain entry into the United States. They would have to say they were working illegally in the United States before and now they want to come back. That is the provision of law under which they could actually come back into the United States.

Based on the experience of the Senator from California with the use of illegal documentation—Social Security cards, driver's licenses, all of the other items of identification that can be counterfeited—would the Senator have a view as to whether this particular provision could be taken advantage of by those wishing to commit fraud? Of course, people already committed fraud in this country by coming here illegally and using those same fraudulent documents to gain employment in the first place. Isn't this one that would engender a lot of fraudulent applications to come back into the United States?

Mrs. FEINSTEIN. This has been and is today a huge problem. Additionally, there is another problem on our southern border, if the Senator would give me a minute, and that is, other than Mexicans crossing the border being picked up illegally. I think it was up to 88,000 last year. So it is shooting up. And when you ask the Border Patrol about it, they say this is very difficult for them to sort it all out because there is such pressure on the border. The Senator, certainly, in Arizona knows that pressure on the border.

The fraud of documents is well known. One can buy a driver's license, a Social Security card fraudulently in places that I know of and have seen it happening in southern California for $15 or $20. So that is not a big problem.

Mr. KYL. If I can conclude by saying to the Senator from California, I think the proposal she and the Senator from Texas have set forth to put this very

important but very complicated discussion off and not have this debate on the bill that helps to fund our war operations in Iraq and Afghanistan is a very good proposal which I intend to support.

As she knows, I welcome the opportunity to work with her and also with my good friend and colleague from Idaho, the Senator who is proposing the bill, which I would oppose but would hope to be able to work on if we have the opportunity to do that outside the kind of activity in which we are engaged on the supplemental appropriations bill.

So I do support the proposal of the Senators from Texas and California and hope the body will approve it.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I enjoyed this debate. It has been over 15 years since the Senate has had real debate on immigration. The Simpson-Mazzoli bill was the last time the Senate seriously looked at this issue, and it took us years to finally come up with a bill. We have not seriously addressed changes since.

There have been dramatic changes across America in immigration patterns, the number of people coming in, certainly issues of national security. If there is ever an issue we should address in comprehensive fashion, it is immigration.

I commend President Bush. We do not see eye to eye on many things, but I commend him for his leadership in suggesting we debate immigration. His proposal is not one I embrace in its entirety, but it at least opened the debate. Many were critical of it, some lauded it, but at least he had the courage to step up and say: Let's debate it.

Now comes the sense-of-the-Senate resolution that says we have an important bill before us relative to the war in Iraq, Afghanistan, and tsunami relief. Senator CORNYN, a Republican of Texas, and Senator FEINSTEIN, a Democrat of California, have said this bill should not include immigration provisions. I think they make a compelling argument, an argument which I joined with several of my colleagues in making to Senator FRIST a few days ago, who cosigned a letter—about 20 of us—to Senator FRIST saying we do not believe one specific immigration provision should be part of this conference or this appropriations bill, and that relates to the REAL ID.

For those who have not followed the debate, the REAL ID is a provision adopted in the House of Representatives which will be part of this appropriations bill when the House and Senate come together to decide the final work product.

My concern, I say to Senator CORNYN and Senator FEINSTEIN, is that the garlic is in the soup. There is no way to take it out at this point. Those of us who may be conferees will walk into that conference committee and face an immigration issue, a very serious immigration issue, a very controversial one.

So the suggestion we not add any immigration debate to this bill may be a good one to expedite it but like it or not we are going to face what I consider to be some very onerous provisions of the REAL ID bill which will be part of the conference committee report. If it is appropriate, I will retain the floor but ask the Senator from Texas about that particular circumstance. Would the Senator from Texas be open to modifying his sense of the Senate resolution in paragraph 4? In paragraph 4, the Senators from Texas and California say Congress should not short circuit the discussion of immigration by attaching amendments to this supplemental outside of the regular order.

Would the Senator from Texas modify his resolution to add the following language: Or by including provisions relating to immigration in the conference report to this supplemental appropriation bill?

If the Senator would, then I think what we are saying is we want a clean bill. By this vote, we are instructing our conferees to not come back with REAL ID, to not come back with any immigration provision.

I understand the predicament Senator MIKULSKI faces in Maryland. Senator REED of Rhode Island faces a similar predicament when it comes to Liberian refugees. Senator SCHUMER faces an emergency situation with victims of volcano on an island who are now going to be deported back to tragic circumstances.

The point I am making is we cannot escape the reality immigration is on top of us and coming at us, but if we want this bill—because of its special nature—to be clean, I ask, without yielding the floor, if I could, through the Chair, if the Senator from Texas would be open to including this language in his sense of the Senate resolution?

Mr. CORNYN. Mr. President, I appreciate the question of the Senator from Illinois. For purposes of the Senate bill, it is absolutely critical, as I think the debate has shown so far, we not get into other unrelated issues to the war supplemental, but we ought to leave it up to the conferees. Obviously, we are going to have to deal with the House provisions, and that is going to be worked on in the conference committee I do not expect to be on.

This is the agreed language Senator FEINSTEIN and I have been able to come up with, and it covers the area we have some control over; that is, what happens in the Senate on the Senate's version of the bill.

Certainly, I will want to work with the Senator from Illinois and all my colleagues to try to make sure we enact comprehensive reform. Part of the problem is we are taking this in a rifle-shot fashion when I think what we need to do is deal with it comprehensively. That is the reason for the resolution.

Mr. DURBIN. I thank the Senator from Texas. I do apologize. I mentioned to him a minute or two ago that I was going to ask a question along these lines. I would like to ask Senator CORNYN and Senator FEINSTEIN to consider this. Because if we do not go to that next step and say we are not going to let the House bring in an immigration provision in conference and tie our own hands and not offer important immigration provisions in the Senate, that is unfair. If we are going to make this an immigration and appropriations bill, then we have some pretty important issues to consider.

Senator KENNEDY has an issue with Senator CRAIG—Senator MIKULSKI, so many do. If this conference is going to be open and the REAL ID provisions come rolling out at us, as difficult as it is, as time consuming as it may be, we have no recourse but to open the issue and open the debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, reluctantly, I rise to oppose this amendment, even though I agree with many of the principles expounded in it. No. 1, to my colleagues on the Judiciary Committee, the sponsors of this amendment, I too, agree, that our immigration system is badly broken. It does fail to serve the interests of our national security and our national economy. We do need to enact the critical appropriations bill to support our troops and help people who are tsunami victims and some other important aspects. At the same time, though, the sense of the Senate really should be directed to the House. For someone like myself, who has a very serious crisis because of something called the H–2B visas, which I will explain in more detail at another time, the fact is this is our only vehicle.

Immigration, as an issue, was introduced in the supplemental appropriation bill in the House of Representatives with an enormously controversial and prickly concept, the so-called REAL ID card. I know that my colleague from Tennessee has proposed some creative solutions to deal with that. I know that others want to talk about this. If we can talk about comprehensive immigration reform, I am all for it. But the question is, When are we going to do it? It has been over 1,000 days since 9/11, and we have not done comprehensive immigration reform, nor have we looked at what aspects of immigration are working. There are certain aspects that are working in certain areas of the guest worker programs; college students who come from abroad, who work in our country and learn in our country and go back home, what a tremendous exercise in public diplomacy the so-called J visas have accomplished.

In my own State, the H–2B visa, which allows guest workers to come

into this country for seasonal employment to take jobs that are certified as not being held by American workers, with a mandated return to their own home, has worked well. It has worked so well that the cap is now bursting at the seams.

I am all for comprehensive immigration reform, but No. 4 says Congress should not short circuit the discussion by attaching amendments to this supplemental. We have had no discussion. There is nothing to short circuit. What we do have is a series of, as Senator DURBIN has said, these rifle-shot crisis situations.

It would be wonderful if we could have comprehensive reform. I look forward to participating in that comprehensive reform. For now, we have to look at those States that are facing a crisis because of the flawed immigration system we have now and for which we are advocating modest and temporary legislative remedies.

I salute our colleagues. They have a big job ahead of them. Anybody willing to undertake comprehensive immigration reform needs to be encouraged, supported and worked with. We need elasticity in this bill to deal with those things related to our economic viability. In many ways, a guest worker program that is working needs to be addressed, and I hope to offer an amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I know the Senator from Maryland has worked hard on this need, as well as the Senator from Idaho, and there are other Senators who feel deeply we ought to deal with immigration. Most of us have been to Iraq, Kuwait and Afghanistan. We know what this bill is about. This bill is about whether the National Guard men and women from Tennessee have sufficient armor when they go into a combat zone. This bill is about whether we are going to get some money to the new Palestinian Authority in time for them to be a success so we can begin to have the hope of peace in the Middle East. This bill is about whether we are going to fully fund a building in Baghdad for our thousands of Americans who are there so that they do not have to live in trailers and live in a more dangerous situation than most Americans outside of this country live in today in the world.

This bill is about whether our combat men and women have rifles that are sufficiently modern to defend themselves. This bill is about whether we have safe trucks. Eight hundred of them convoy from Kuwait City to Baghdad every day, carrying supplies to our men and women. This bill is about whether we have helmets for our combat men and women. We should not be slowing it down. It is amazing to me that we would slow down a bill to support the men and women in Iraq and Afghanistan, 40 percent of whom have left their mortgages, left their homes, left their children, left their jobs. They are dealing with all the issues we have to deal with from half a world away. Plus they are being shot at, and some of them are being killed. We are slowing it down because we have failed to address one of the single most important issues facing our country, and so we come up in the middle of a debate about whether to support our troops and say, okay, let us stop for a few weeks and argue about immigration.

For Heaven's sake, we should pass the bill to support our troops immediately. We agree with it. We all support it. We support them. We all agree with it. Then we should get about the business of dealing with the point of the Senator from Maryland, and the proposal of the Senator from Idaho, and the work Senator KYL and Senator CORNYN are doing.

This is a country that is unified by a few principles, our country, the United States of America. We are not unified by our race or by our ethnicity or anything else such as that. Among those principles is the rule of law. We go all around the world meddling in other people's business, preaching about the rule of law, yet we have 10 to 15 million people living here who violate the law by being here. We should not tolerate that, and we should be embarrassed as a Congress that we have failed to deal with it.

This is not a problem Tulsa can deal with or Nashville can deal with. This is a flat out responsibility of the Congress to solve, and we should solve it. We are dumping on the backs of local communities the cost for schools to educate people who are illegally here. Ten years ago in the schools of southern California, a third of the children in the largest school district in California were here illegally. Somebody has to pay for that. Emergency rooms in hospitals have many people there who are here illegally. That is straining the budgets of cities and states.

So here we are in the middle of a debate about how quickly we can support our military effort, and somebody over in the House of Representatives attaches a bill that might make some sense but—No. 1, it slows down our bill for the troops, and No. 2, it probably imposes upon states a big unfunded Federal mandate which most of the people on this side of the aisle were elected to stop. I mean there are 190 million state driver's licenses. What the House provision would do is say we are going to turn the state driver's license examiners into CIA agents so they can go around and check and see whether we have any terrorists coming in, and then we are going to make them pay for it as well. Here is one more unfunded mandate.

Then the third thing we are doing, and we have not even considered through our committees whether this is the best way to do it, is determining if we are going to have in effect a national identification card. In fact, that is what the REAL ID Program is. It is a national identification card. They say it is not, but what else is it? We have taken an ineffective national identification card, the driver's license—I have mine right here. We have taken an ineffective national identification card, and we are trying to turn it into an effective one. We know it is ineffective because we know that the terrorists in 9/11 all had driver's licenses. I know it because mine expired in 2000, and every time I hand it over at the airport they never turn it over to see if it was renewed to the year 2005. We have an ineffective identification card, and the House wants us, without going to a single committee, to pass a big unfunded mandate, slow down help for the troops, and pass an unfunded national identification card. That is what we are being asked to do here, and I don't think we should do it. That is not the right way to go about it.

I fully support the idea of allowing the Democratic and Republican leadership to agree on a certain time soon where we address this massive challenge to our credibility as a nation, as a nation of the rule of law, and where we create an immigration system we can be proud of. For me, that means a generous program to allow people to come here and work legally, and then we enforce the law. For me, that means we do not have a double system where we have 500,000 or a million people who stand in line to get in, and then we have another million people who break the line to get in. That is not right.

We also need to address questions about whether we are going to continue to require people who apply for student visas to say when they apply that they never intend to live here. Of course, many of them do and we want many of them to. Do we not want the brightest scientists in China or India to come to the University of Alabama or Tennessee and then stay here and create jobs to keep our standard of living up? We are getting more competition from those other countries for these bright people. We need to look at that. Then we need to look at enforcement.

But this is not the way to do business here. I strongly support the Cornyn resolution. I do not want to see the REAL ID legislation or any other immigration legislation slow down money for the troops, put an unfunded mandate on state and local governments, and prematurely, without careful, comprehensive consideration, try to deal on this floor with one of the greatest issues we have to face.

We should pass the Cornyn resolution. We should pass the bill supporting the troops. Then we should set aside a specific time, face up to it, and do our job of reforming the immigration laws.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oklahoma.

Mr. COBURN. Mr. President, I rise to speak on this issue because I think we find ourselves fixing the wrong problem

again. The real consequence of not having addressed the immigration problems in this country means we have problems with crops that are not going to be harvested because we don't have workers. But the time to do that is right after we finish this bill.

The American people as a whole do not want an amnesty program, but they will accept an amnesty program if we fix the border, and we have not secured the border. We have not done what we need to do in this body, in the House or through the administration, to enforce the laws of this country.

It is illegal to come here and we should not reward illegal behavior. But you can't even begin to address that until you say we are going to enforce closing this border for national security purposes but also for competitive purposes.

We need to have a national debate about how many people need to come in and supply an effort to our Nation as we grow. All of us in this country are immigrants except for the Native Americans. We would welcome others. But it has to be done legally. We have not done our job as bodies of the legislature, along with this administration, of first securing the border.

We have a national priority in terms of our own safety. Yet the politics of securing that border plays into every Presidential candidate who is running today. It becomes a political football. The fact is, for our children we need to secure that border to make sure we don't have terrorists coming across. ''60 Minutes'' 3 or 4 weeks ago showed a person from Croatia who came across the border illegally, became a legalized citizen after that, and ran guns and exported them throughout our country. He had access illegally to get here in the first place. That is not what we want.

We need to solve agricultural problems. I come from an agricultural State. But the American people are not going to accept an amnesty program, I don't care how you design it, based on any type of emergency, until we fix the obligation we have, which is to control that border. We have the capability to do it. We have the technology to do it. We have the money to do that and a lot less of other things if we would do it. If we will in fact control that border, then we can solve every other problem that comes about.

There are going to be consequences of not fixing the problems that were outlined by Senator MIKULSKI and Senator CRAIG, but rightly so, because we haven't done our job. There are consequences when we do not do our job. So I support Senator CORNYN's resolution fully. We need to come back and address this. We need to address every other area, but we have to first recognize that the American people are counting on us to do what is right in terms of securing the border. As long as we continue to ignore that because it is not politically acceptable in certain circles, then we are not going to fulfill our duty to protect this country. When we have troops fighting in Iraq and in Afghanistan and around the rest of the world, and we will not even enforce the law when we have the capability to do it, we dishonor them.

So this is fixing the wrong problem. It is a problem, yes, but it is not the real problem. The problem is the border and controlling the border. I am convinced the American people are compassionate and will deal with any other issue of those who are here and those who want to come here in an orderly fashion, once they have the confidence that we have the border controlled. But we fail to do that at our peril, we fail to do that at the peril of the safety of this country, and we fail to do that at the peril of these areas that need specialized help in a short period of time. We are going to suffer the consequences of that and we should.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I point out the debate we have been seeing here in the last couple of hours to me proves the point, and that is this is a complex, difficult, contentious issue, but one that, from what I heard over the last couple of hours, we all agree needs to be addressed.

Indeed, that is what the resolution says. It says Congress must engage in a careful and deliberate discussion about the need to bolster enforcement of and comprehensively reform our immigration laws. That is what the resolution says.

I know different Senators have different proposals. As I have said, I think the idea is we ought to take up those in the Judiciary Committee in the Subcommittee on Immigration, and we ought to be able to come up with a bill we can present to the chairman of the Judiciary Committee and other members. We can have it marked up. With the help of the majority leader, we can get it to the floor of the Senate.

It would be my hope we can do that within the next few months. I agree. We have a serious problem that has long been neglected in this country, and it cries out for an answer.

Lest any of our colleagues think this is not a complicated matter, let me point out some of the matters contained in the AgJOBS bill alone which I think are very controversial. For the benefit of our colleagues who are listening, this will give them a flavor of why I say this is such a complex and contentious issue.

For example, although the AgJOBS bill purports to be a temporary worker program, it does not have a requirement once people are qualified to work in the program that they actually return to their country of origin. I believe this component of a work-and-return concept is absolutely critical to any program we might justly call the temporary worker or guest-worker program.

Second, one of the provisions of the AgJOBS bill is entitled ''Eligibility for Legal Services.'' This provision requires free, federally funded legal counsel be afforded through the Legal Services Corporation to assist temporary workers in the application process for legal permanent residency. That is right. The bill requires that the taxpayers pay the bill for these allegedly temporary workers to apply for legal permanent residency under the bill, creating a new legal right and a new right to legal representation for which the American taxpayers are going to be called on to pay.

Third, the AgJOBS bill allows farm workers who are currently working illegally in the United States to cut in line in front of workers who have followed legal avenues from the start, violating the principle the Senator from Tennessee articulated so well just a few moments ago.

Next, AgJOBS grants amnesty to as many as 3 million illegal aliens who say they have worked recently in U.S. agriculture, along with their family members.

So not only are we talking about a worker program, we are talking about bringing families and children, which common sense tells us will decrease the likelihood that at any such time in the United States part of this program will indeed be temporary. Indeed, it is more likely that they will stay beyond the span of their visa and live here permanently.

One other point: Since virtually all of the special agricultural workers granted the one-time-only amnesty enacted in 1986 left agricultural work as soon as they had their green cards on hand, AgJOBS puts illegal aliens on the path to U.S. citizenship in a two-step process.

First, illegal aliens would be granted temporary residence and indentured for up to 6 years to ensure they continue to work in agriculture in the short term. Next, once these newly legalized aliens are provided records of labor, they will be granted lawful permanent residence and then U.S. citizenship—amnesty, in a word.

Next, AgJOBS also freezes wage levels for new legal H–2A, nonimmigrant, agricultural workers at the January 2, 2003, level for 3 years following enactment. The undocumented worker can then stay in the United States indefinitely while applying for permanent resident status. They can become citizens so long as they work in the agricultural sector for 675 hours over the next 6 years. Their spouse and minor children are permitted to accompany them and will also earn legal permanent residency status.

I point that out because, as the Senator from Georgia, Mr. CHAMBLISS, said earlier, I doubt there are many of our colleagues who understand the content of this AgJOBS bill. If the Senator from Idaho chooses to offer it as an amendment, we will take up that debate. Senator FEINSTEIN and others may offer some amendments, and I hear that Senator KYL and Senator

CHAMBLISS may have amendments of their own. Who knows how many other amendments may be working out there related to AgJOBS or maybe a more comprehensive bill to deal with this issue generally.

But that makes the point. While we are spending time talking about immigration reform, we are not getting to the job that ought to be highest on our list of priorities; that is, making sure this emergency supplemental appropriations bill passes without undue delay and without getting bogged down in other matters, such as immigration reform.

In the end, I join with all of my colleagues and say it is past time we deal with immigration problems in this country comprehensively. We have no border security now. We do at the bridges, but between the bridges it is come and go almost as you please. While many people come across the border to work, we understand as human beings people who have no hope or no opportunity where they live will do almost anything to be able to provide for their family. Be it human smugglers or be it self-guided trips across the Rio Grande or across our northern border, it is relatively easy to get into the United States, and the terrorists who know that can exploit that and hurt the American people.

We also know once people get to the interior of the United States, there is virtually nonexistent law enforcement. We have inadequate detention facilities along the border, particularly in my State. They have to let virtually all of the detainees, the immigrants who come across illegally, go on their own recognizance and ask them to come back for a deportation hearing 30 days later. It should be no surprise that in some instances 88 percent of them don't show up and simply melt into the landscape—many of them working in places all across the country doing jobs Americans, perhaps, do not want.

But this demonstrates how badly broken our immigration system is, our border security, our interior enforcement, and the reason we need to deal with this comprehensively, not just with a Band-Aid.

I hope my colleagues will join Senator FEINSTEIN and me and the others who have spoken already in support of the Cornyn-Feinstein resolution and let us have a debate about immigration—comprehensive immigration reform. But let us not do it at the time when our troops are fighting the war on terror and delay them getting the equipment and the resources they need in order to do the job they volunteered so nobly to do on our behalf.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his leadership on this issue and for his remarks, which I share.

We have a problem with immigration and law enforcement and national security. Some of these are just security and some of these involve economic and social policy that impact the immigration question.

I believe we can do better. We need to give serious thought and consideration that we can do much better. We have people who want to come here. They want to do so in the right way. They will be assets to our Nation. We ought to identify those people and try to accommodate as many as possible, consistent with our own national interest.

The Senator from Texas mentioned what is happening in enforcement today. It is a nightmare. There was an article this morning in the Washington Times about 13 illegals stopped by the local police officers. They were released on bail. They are asked to show up for a hearing on their deportation. The statistics show, as the Senator just said, as much as 80 percent of those people do not show up. They become absconders. It makes a mockery of the system in many ways.

I have some ideas about this issue. I have some beliefs that local law enforcement has been confused in what their authority is. We ought to encourage them to be helpful in this area instead of discouraging, as the current laws today are.

I have done legal research on that particular question, but this is a Defense supplemental bill to fund our soldiers in the field in combat. It is not the time to debate comprehensively one of the most complex and sensitive subjects this country has to deal with. That is fundamental.

The Sensenbrenner language offered early on on the intelligence bill was not accepted. He was given a promise he could move it on the first vehicle that came out of the House. This is more a national security issue, by far, than an immigration bill. It is simply a tool to create a system by which we can readily identify those who are not here legally.

It is my observation, having been around this Senate now for some years, that you can propose and do a lot of things on immigration. Unless you come up with something that works, that has the actual potential to be an impediment to illegal entry into our country, that is when we start hearing an objection. It seems those proposals never pass.

I am prepared not to offer anything on this bill. I am prepared not to debate on this bill. My opinion is, the Sensenbrenner language is fine. I am all for it. But we are at this point looking at the potential of a flood of amendments dealing with immigration on a bill that ought to be funding our soldiers.

The distinguished Senator from Mississippi who chairs the Appropriations Committee must be looking in wonder at a bill that is supposed to be funding our troops that has now become a massive debate on this issue of immigration. It is unfortunate.

Senator FEINSTEIN and Senator CORNYN have agreed on an amendment that makes sense. It is something I can live with. I believe it would move us forward.

The legislation being proposed, such as AgJOBS, is not good to begin with, and I would probably oppose it, but more than that it is not the time to deal with it. We are just not ready. It is not appropriate.

I urge our colleagues to support this, and not only support it but to vote down the amendments that deal with immigration so we can get this bill done. We will have to deal with immigration. It is a critical national issue. It is important to our country. We are a nation of immigrants. We do not want to stop people from coming here. We do have needs in many areas and sectors of our economy.

I am not sure the Republic is going to fall if we do not have enough custodial helpers in some resort somewhere. I am not sure the Republic is going to fall if there is not somebody to turn the bedspreads down at night and put a little piece of chocolate on the pillow. In fact, we have a lot of American citizens who do that work dutifully every day. If they were paid $2 or $3 more an hour, maybe they would do it; maybe there would be more American citizens prepared to do that work.

We grow cotton in my home State of Alabama. If we bring twice as much cotton into the United States as was brought in the year before, will we not drive down the price of cotton, or any other commodity?

We need to be of the understanding that unlimited immigration to meet every possible need some business person says is critical is not the right policy for our country just because they say it is critical. They have an interest. They want cheap labor. We are now talking about matters that go beyond this supplemental.

I am proud of our soldiers. I have been to Iraq and Afghanistan three times. They are performing exceedingly well. We have a responsibility to support them. This legislation does that. It is our responsibility to move it forward, get it to them, remove this uncertainty, make sure the Defense Department has what they need to support our troops because we are holding their feet to the fire. If they are not doing what the Defense Department ought to be doing, we are going to be on them, and we need to give them the resources so we can legitimately complain if our soldiers are not being adequately supported. We will make a mistake if we get off that purpose and move toward a full-fledged debate on immigration.

I support the Cornyn-Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—61

Alexander	Domenici	Murray
Allard	Ensign	Nelson (NE)
Allen	Enzi	Pryor
Bennett	Feinstein	Reid
Bond	Frist	Roberts
Brownback	Graham	Salazar
Bunning	Grassley	Santorum
Burns	Gregg	Schumer
Burr	Hagel	Sessions
Byrd	Hatch	Shelby
Cantwell	Hutchison	Smith
Chafee	Inhofe	Specter
Chambliss	Kyl	Stevens
Clinton	Landrieu	Sununu
Coburn	Lincoln	Talent
Cochran	Lott	Thomas
Coleman	Lugar	Thune
Collins	Martinez	Vitter
Cornyn	McCain	Wyden
DeMint	McConnell	
Dole	Murkowski	

NAYS—38

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Feingold	Mikulski
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Obama
Boxer	Isakson	Reed
Carper	Jeffords	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Snowe
Craig	Kerry	Stabenow
Crapo	Kohl	Voinovich
DeWine	Lautenberg	Warner
Dodd	Leahy	

NOT VOTING—1

Dayton

The amendment (No. 372) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, today I rise to offer an amendment. I understand my colleague from California is seeking a unanimous consent.

Mrs. FEINSTEIN. Yes. If I may, Mr. President, I thank the Senator from Maryland. I ask unanimous consent—

Ms. MIKULSKI. This is without yielding the floor.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to be recognized following the Senator from Maryland for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the Senator from Maryland yield?

Ms. MIKULSKI. Yes, without losing my floor privileges.

Mr. STEVENS. Mr. President, I have an amendment at the desk. It is an amendment to restore the money for the initial design of the building for the National Intelligence Director. When this bill was before our committee, we reduced that amount at the time, but when the budget was presented, there was not a nominee for that office.

Yesterday, I presented to the Intelligence Committee Ambassador Negroponte to be the new NID and discussed this issue with him. It has become somewhat controversial. This amendment I have would restore the money our committee reduced in the line that deals with the NID. It has been cleared.

I ask unanimous consent that this amendment be set aside temporarily so we may consider this amendment. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am now confused. As a courtesy to the chairman of the Subcommittee on Defense Appropriations, I yielded to him so he could offer his technical amendment. Are we now laying my amendment aside?

Mr. STEVENS. No.

Ms. MIKULSKI. Where are we?

The PRESIDING OFFICER. The Senator is offering a unanimous consent to set aside your amendment and to bring up his, which has not been done yet.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, in the interest of following the regular order and engaging in senatorial courtesy, we really need order. I could not hear the distinguished Senator and, therefore, was concerned that we were having some slippage in our process.

AMENDMENT NO. 386

Mr. STEVENS. Mr. President, I thank the Senator from Maryland. I have a request to set aside the Senator's amendment temporarily while we consider this amendment which has been cleared on both sides. It restores the original budget request for NID.

I offer the amendment on behalf of myself and the Senator from Hawaii, and I ask unanimous consent that the amendment be brought before the Senate, that it be adopted, that the motion to reconsider be laid upon the table, and that we go back to the amendment of the Senator from Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. INOUYE, proposes an amendment numbered 386.

The amendment is as follows:

On page 149, line 10 strike ''$89,300,000'' and insert ''$250,300,000'' and on line 11 strike ''$20,000,000'' and insert ''$181,000,000.''

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to and the motion to reconsider is laid upon the table.

The amendment (No. 386) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized. The Chair will enforce order.

AMENDMENT NO. 387

Ms. MIKULSKI. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, and Mr. STEVENS, proposes an amendment numbered 387.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants)

On page 231, between lines 3 and 4, insert the following new title:

TITLE VII—TEMPORARY WORKERS

SEC. 7001. SHORT TITLE.

This title may be cited as the ''Save Our Small and Seasonal Businesses Act of 2005''.

SEC. 7002. NUMERICAL LIMITATIONS ON H–2B WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

''(9) An alien counted toward the numerical limitations of paragraph (1)(B) during any one of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) IMPLEMENTATION.—Not later than the date of enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b), in a manner consistent with this section and the amendments made by this section.

SEC. 7003. FRAUD PREVENTION AND DETECTION FEE.

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended by adding at the end the following:

''(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

''(i) The amount of the fee imposed under subparagraph (A) shall be $150.''.

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking ''H1–B and L'' each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking ''section 214(c)(12)'' and inserting ''paragraph (12) or (13) of section 214(c)'';

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking ''(H)(i)'' each place it appears and inserting ''(H)(i), (H)(ii), ''; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end ''or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)''.

(2) CONFORMING AMENDMENT.—The heading of such subsection 286 is amended by striking ''H1–B AND L''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2005.

SEC. 7004. SANCTIONS.

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 3, is further amended by adding at the end the following:

''(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

''(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

''(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

''(iii) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

''(iv) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

''(v) In this paragraph, the term 'substantial failure' means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 7005. ALLOCATION OF H–2B VISAS DURING A FISCAL YEAR.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 7002, is further amended by adding at the end the following new paragraph:

''(j) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens who enter the United States pursuant to a visa or other provision of nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.''.

SEC. 7006. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H–2B NONIMMIGRANTS.

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105–277; 8 U.S.C. 1184 note) is amended—

(1) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following new subsection:

''(d) PROVISION OF INFORMATION.—

''(1) QUARTERLY NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of House of Representatives of the number of aliens who during the preceding 1-year period—

''(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

''(B) had such a visa or such status expire or be revoked or otherwise terminated.

''(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

''(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

''(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

''(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

''(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.''.

Ms. MIKULSKI. Mr. President, today I rise to offer an amendment that is desperately needed by small and seasonal business throughout the country. This amendment is identical to the bipartisan bill I introduced in February called Save Our Small and Seasonal Business Act. It is designed to be a 2-year temporary solution to the seasonal worker shortage that many coastal States and resort States are facing.

I wish to acknowledge the need for comprehensive immigration reform, but right now small and seasonal businesses all over this Nation are in crisis and need our help. These businesses need seasonal workers before the summer begins so they can survive.

For years, they have relied on something called the H–2B visa program to meet their needs. This is a temporary guest worker program. But this year they cannot get the temporary labor they need because they have been shut out of the H–2B visa program because the cap has been reached. This is a program that lets businesses hire temporary guest workers when no American workers are available.

This amendment modeled after the Save Our Small and Seasonal Business helps employers by doing four things:

It temporarily exempts the good actor workers—those who do return home after they have worked a season—from the H–2B cap. Employers apply for and actually name those good compliant workers who have complied with the law, they name them so that they are allowed them to reenter for this temporary period.

It protects against fraud within the H–2B program.

It provides a fair and balanced allocation for the H–2B visas.

And it reports to Congress how the program is working and where the beneficiaries are.

I urge my colleagues to help small businesses by passing this amendment and save these businesses and actually save thousands of American jobs.

Thousands of small and seasonal businesses are facing a worker shortage as we approach the summer. In my home State, this is primarily in the seafood industry. This year, because the cap of 66,000 workers was reached earlier in the year, my small businesses have been effectively shut out. We have had a lot of summer seasonal business in Maryland on the Eastern Shore and Ocean City, people working on the Chesapeake Bay, and many of these businesses use the program year after year.

First of all, they do hire American workers. They hire all the American workers they can find. But at this time of the year, we need additional help to meet seasonal demands. Because that cap was reached for the second year in a row, I might add, these employers are at a disadvantage. They cannot use the program. What will it mean? It will mean that some of our businesses will actually have to close their doors.

My amendment is supported on both sides of the aisle. It does not change existing requirements for employers. Employers cannot just turn to the H–2B visa whenever they want. First of all, employers must try vigorously to recruit those workers. Then they must demonstrate to the Department of Labor that they have no U.S. workers available. Only after that are they allowed to fill seasonal vacancies with the H–2B visas.

The workers they bring in often participate in the program year after year. They often work for the same companies. They do not stay in the United States and are prohibited by law from doing so. They return to their home country, to their families, and their U.S. employer starts all over the following year.

Let me just say this: Right now in certain villages in Mexico, there are many women—mothers and their adult daughters, aunts—who are packing their bags. They are ready to come back to Maryland where they have come before to work in Clayton Seafood or Phillips Crab House, which so many of you have enjoyed in your visits to the bay, or Harrison's seafood. Some of them have been in business 100 years. Some of them are major employers. A lot of college kids work their way through college working at Phillips Seafood, but Phillips Seafood

needs these guest workers to help these kids and to help the restaurant stay open.

These workers are not taking the jobs, they are helping American workers keep their jobs and American companies keep their doors open and, I might add, to the delight of many of you here, to the delight of people who enjoy our products, and to the delight of the people who collect the sales tax, Social Security, and so on from those American workers.

I know we need comprehensive reform, but while we are waiting for that, I have a temporary fix. By the way, working with my colleagues on both sides of the aisle, we looked for regulatory relief. We consulted with the Department of Labor and the Department of Homeland Security. Secretary Chao could not have been more gracious, more cooperative, more forthcoming, but when it came down to it, her legislative counsel said, you need to change the law. She could not change the regulations on this cap.

What does my amendment do? First, my amendment continues to protect those American jobs. It is a short-term fix because it is a 2-year solution. This amendment will only be in place for 2 years. So it allows this comprehensive reform to go forward.

What it does is exempt returning seasonal workers from the cap. That means there are no new workers. It means those people who have worked before and have gone back home are the only ones who would be eligible. In other words, in the last 3 years, they had to have worked here under the law, come in under the law, and returned home as the law requires. So it is not new people. It is not an amnesty program. It is an employment program for them and for us. These workers receive a visa, and it requires their employers to list them by name. So in all probability, they will return to the same employer. Then, at the end of the year, they will do it all over again. Remember, the only people eligible are those who have used the program in the past—the employer and the actual person coming in.

I worry about fraud, too. So we have an antifraud fee that ensures that Government agencies processing the H–2B visa will get added resources in their new sanctions. The bill creates a fair allocation of visas. Some summer businesses lose out because winter employers get all the visas. This will make the system more fair. We also simplified the reporting requirements.

I could give example after example of businesses that have been impacted. Clayton Seafood started over a century ago. They work the water of the bay supplying crab, crabmeat, and seafood. It is the oldest working crab processing plant in the world, and by employing 65 H–2B visa workers they have been able to retain all of their full-time workers.

The Friel Cannery, which began its business over 100 years ago, is the last corn cannery left out of 300. When they could not find local workers, they turned to the H–2B visa. Since then, that business is open and thriving. Each year this program helps the company not only maintain its workforce, but 75 Americans have good paying full-time jobs in accounting and marketing and other areas, and it keeps 190 seasonal workers going and 70 farmers who would not have a cannery to go to are also able to keep their jobs.

So that is what my legislation is all about. It is a quick and simple legislative remedy. It has strong bipartisan support. It is realistic. It is specific. It is immediate, achievable, and does not exacerbate our immigration problem.

Every Member of the Senate who has heard from their constituents, whether they are seafood processors, landscapers, or other people in resort areas, know the urgency in their voice. They know the immediacy of the problem. Our companies feel urgency. They feel immediacy. They feel desperation.

I urge my colleagues to join me in passing this amendment and keeping the doors of American companies open while we also maintain control of our borders.

Mr. KENNEDY. Will the Senator yield for a question?

Ms. MIKULSKI. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I, first, commend Senator MIKULSKI, and I see the Senator from Maine, Ms. COLLINS, and others who have been interested in this issue. Am I right that the earlier numbers by and large have been taken up primarily by winter tourism? The time for application comes at the time of the year when great numbers are taken up for the winter tourism, which has happened historically, and what we are trying to do with the Senator's amendment is to treat the summer tourism and the summer needs on an even playing field, as they are in my own State, which are primarily smaller mom-and-pop stores and some very small hotels that need that. So this basically creates a more even playing field, as I understand, between those who would be taken in the wintertime and those who need the help in the summer, No. 1; am I correct?

Ms. MIKULSKI. The Senator from Massachusetts has accurately assessed what has created the crisis: that given the time of application and when they want the people to work, the winter needs then take up practically all 66,000. We acknowledge our colleagues who do need the winter help, but we need their help for the summer help. You are also correct that my legislation would create a more even playing field between the two and, again, this is a temporary legislative remedy while we assess the entire situation of the need for comprehensive reform, how we keep American jobs, how we keep American companies open, and yet retain control of our borders.

Mr. KENNEDY. Am I correct this is a rather modest increase in terms of the demand? In my own State, the numbers are approximately 6,000 for the summertime. The numbers the Senator has are going to be nationwide, so this is very modest based upon the need. The final point which the Senator has emphasized, but I think it is very important to underline, is these are people who have been here before, who have gone home and came back and therefore have demonstrated over the course of their life that they return back home and are in conformity with both the immigration and labor laws that exist today.

Ms. MIKULSKI. The Senator, again, has made an accurate assessment. This bill is only applicable to employers and guest workers who have complied with the law. If a worker has not been here before and they have not demonstrated that they have complied with the law, not returned to their home country, they would not be eligible. That is why I say we need to help American business but keep control of the border.

Mr. KENNEDY. I thank the Senator for her response and urge my colleagues to give strong support for her amendment.

Ms. MIKULSKI. I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as many are well aware, the cap in current law on the number of H–2B visas is too restrictive, and it's imposing needless hardships on many businesses that rely on seasonal workers to meet the heavy demands of the tourism industry. Once again, these small industries are facing a crisis this summer if the number of visas isn't increased immediately. Senator MIKULSKI's timely amendment will provide the much-needed relief they deserve, and I urge the Senate to support it.

For several years in a row, the cap has created a crisis for the tourism industry in Massachusetts and nationwide. Countless small, family-run businesses depend on the ability to hire more workers for the summer season, and they can't possibly find enough U.S. workers to fill the need. Without this amendment, many of these firms can't survive because the seasonal business is the heart of their operation.

This fiscal year's allocation of 66,000 visas was exhausted just a few months on into the year. Senator MIKULSKI will make about 30,000 additional visas available, and it should be enacted as soon as possible, so that these firms can make their plans for the coming months.

Obviously, this amendment is only temporary relief. It should be achieved through comprehensive immigration reform. We all know our immigration system is broken, and many other reforms are needed as well. The Nation needs a new immigration policy that reflects current economic realities, respects family unity and fundamental fairness, and upholds our enduring tradition as a Nation of immigrants.

Enacting these other reforms will take time—time we don't have if we want to rescue countless seasonal employers around the country. Senator

MIKULSKI's proposal provides the immediate relief needed to enable employers counting on H–2B workers to keep their doors open this summer, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in strong support of the amendment offered by my colleague along the Chesapeake Bay, Senator MIKULSKI. This amendment would make minor, temporary changes to the non-immigrant, seasonal visa program known as the H–2B visa program. This program allows small businesses in the Commonwealth of Virginia to hire temporary workers for non-agricultural jobs.

As many of my colleagues know that for each fiscal year, which starts on October 1, there has been a statutory limitation on the number of admissions to the U.S. under the H–2B visa category since 1990. In 2004, the statutory cap of 66,000 H–2B visas was reached on March 9. This year the H–2B cap was reached much earlier on January 3.

As a result of reaching this cap for the second year in a row, many businesses, mostly summer employers, have been unable to obtain the temporary workers they need because the cap was filled prior to the day they could even apply for the visas. Consequently, these businesses have and will continue to sustain significant economic losses unless Congress acts.

Our amendment helps fix this problem by making common-sense reforms to our H–2B visa program that will allow our small and seasonal companies an opportunity to remain open for business.

First, the bill would reward good workers and employers. Those workers who have faithfully abided by the law for one of the past 3 years would be exempted from the cap. This exemption will help keep together workers and employers who have had a successful track record of working together.

Second, the bill would make sure that the Government agencies processing the H–2B visas have the resources they need to detect and prevent fraud. Starting on October 1, 2005, employers participating in the program would pay an additional fee that would be placed in a Fraud Prevention and Detection account. The Departments of State, Homeland Security, and Labor could use these funds to educate and train their employees to prevent and detect fraudulent visas.

Finally, the bill would implement a visa allocation system that would be fair for all employers. Half of the 66,000 visas would be reserved for employers needing workers in the winter and the other half would be reserved for companies needing workers for the summer. This provision would allow both winter employers and summer employers an equal chance to obtain the workers they desperately need.

Without these modifications, these employers will continue to struggle in their efforts to find the necessary employees to keep their businesses running. Many in the seafood industry in Virginia have come to my office, looked me straight in the eye, and told me that their businesses are not going to make it another year if something is not done soon. Only through passage of this amendment can this detrimental cycle be interrupted and these businesses can be saved.

Unfortunately, the only real opposition to this legislation is ''perception.'' I have the utmost respect for those in this Chamber that may not fully support this amendment. Their perception on this matter stems from good principles. Illegal immigration has grown to be a substantial problem in this country, especially in the area of domestic security, and I agree that changes must be made to make our policy work.

However, the temporary changes this amendment proposes does not belong in the debate on immigration or illegal immigration. The H–2B program is a seasonal, non-immigrant worker visa program. In fact, it may be one of the last programs we have to provide a legal, seasonal workforce for our small businesses, allowing them to fill the gaps where domestic workers cannot be found.

More importantly, these changes do not belong in the immigration debate because they deal with an economic issue. Over 75 percent of net new jobs in this country come from small businesses. This amendment proposes changes to help save our small businesses. In many parts of the country, for every temporary H–2B worker that is hired, two more full-time domestic workers are sustained.

There are some criticisms of this program which I am sure some will raise. Let's take a moment and examine some of these mis-perceptions surrounding the H–2B program.

H–2B employers do not do enough to recruit U.S. workers. They could just pay more. Virginia employers have not found this to be the case. The Department of Homeland Security and the Department of Labor set stringent guidelines on recruitment and wages.

First, U.S. employers must prove that they have exhausted all opportunities to hire U.S. workers. One H–2B employer agent in Virginia, who assists employers in this process, have told me that they have already spent in excess of $250,000 on such ads on behalf of its 300 plus clients for the 2005 employment season. This was out of over 6,000 job openings for 300 plus employers in 30 plus States.

Even after this campaign, they only succeeded in locating and hiring less than 50 U.S. workers who expressed an interest in the H–2B jobs. They were all hired, but unfortunately, less than half of these workers started work and even less completed the entire season.

In regard to the seafood industry, over the past 15 years, Americans have slowly withdrawn from their workforce. It is common for motivated workers to make $75–$100 dollars in a 7-hour day shucking oysters, picking crabs, or packing the product. Those in the seafood industry have told me that despite this earning potential, ''frequently U.S. workers will work for a day or two and then never return. It is difficult to function on the uncertainty of our local work force, but we never give up on them.''

In addition, the Department of Labor requires H–2B workers and U.S. workers to be paid the same wages for the same work. Additionally, all of the same taxes taken out of a domestic worker's salary are taken out of the H–2B worker's salary; however, the H–2B worker by regulation are ineligible to receive any benefits from the taxes withheld from their paycheck.

The H–2B program encourages illegal immigration; or, there's nothing more permanent than a temporary worker, a long review of the management of this program reveals otherwise. The employers have successfully ensured that the workers return to their home country. If they do not, employers are not able to participate in the program next year, and neither are the workers. Most consulates in their home countries require the workers to present themselves personally to prove that they have returned home.

Believe me, I am a strong supporter of efforts to help those Americans who want to work get the skills they need to be successful in the workforce. But these H–2B workers are not taking jobs from Americans, they are filling in the gaps left vacant by Americans that do not want them. Like I have said before, this program actually helps to sustain domestic jobs.

The future success of the H–2B visa program rests on the ability of businesses to participate in it, but right now, many will be denied access to the program for the second year in a row. The amendment introduced today helps fix this problem by focusing on three main objectives to help make the H–2B program more effective and more fair.

These seasonal businesses just cannot find enough American workers to meet their business needs. And ultimately, that is why this program is so important. Without Americans to fill these jobs, these businesses need to be able to participate in the H–2B program. The current system is not treating small and seasonal businesses fairly and must be reformed if we want these employers to stay in business.

I congratulate the distinguished Senator from Maryland for raising this issue. I have joined her as a cosponsor on this amendment. In my some quarter of a century that I have been privileged to be in the Senate I have watched in my State the loss of the textile industry and the furniture industry. Peanuts have disappeared, tobacco has disappeared, and now the seafood industry is disappearing.

The distinguished Senator from Maryland and I have paralleled our careers, and my recollection is there used

to be about 150 oyster-picking and crab-picking small businesses in my State. If there is one thing about this legislation, it is for the small person operator, man and woman. I doubt if there is now more than 40 out of the 150 or more picking houses remaining in my State, and these folks have come to see me. They are very quiet when they come in. They do not have any high-paid lobbyist. They come up themselves. Maybe they take off their overalls, but by and large they come right in the office in a very courteous way and they do not beg for anything. They just want to have an opportunity to remain in existence. Most of these small operations have been handed down from family to family.

Throughout Virginia, we take great pride in the Virginia crabcake. We are in competition with the Maryland crabcake. Now, I know Marylanders will come over and steal the Virginia crabmeat to put in their crabcakes. I say to my dear friends, the two Senators from Maryland, they know that, but pretty soon there may not be any crabmeat left for the crabcakes from either State to put on their menus.

Likewise, the oysters have declined, but that, I cannot say, is entirely due to this labor situation. It is more because of the Chesapeake Bay and the problems we are having with the balance of nature. The oysters are disappearing for a variety of reasons, but I will not get into that. Then a number of the seafood houses that provide bait for fishing are dependent on these workers.

I ask my colleagues to listen carefully to two letters that were written to me, and then I will yield the floor. The first one is from Cap'n Tom's Seafood. He states:

My name is Tom Stevens, I am owner and operator of Cap'n Tom's Seafood located in Lancaster County in the Northern Neck of Virginia.

By the way, that is one community I have tried to help because those counties have great pride, but they do not have as strong an economy as they once did. He continues:

I'm located less than 30 minutes from businesses like The Tides Inn, Indian Creek Yacht Club and Windmill Point. These business are large consumers of seafood. I also have many customers in the Richmond area.

When I opened my plant, for years I tried to operate using local help. However, it has become much harder to operate. Not only is the local force scarce and unreliable, but the younger generation is not interested, in learning the trade. On holidays, such as Thanksgiving and Christmas when oysters are in demand, shuckers are nowhere to be found.

As you are aware, in this business, oysters must be shucked and crabs must be picked soon after they arrive. I have tried to get local help by advertising in the local newspapers and through the employment agency without success. I finally got help through the H2 B workers program.

Speaking for myself and several others in the industry, we could not operate our businesses if it weren't for the H2 B program. I can not emphasize enough how important this program is for the seafood industry of Virginia. These workers are reliable, hard working, and with excellent work ethics. Their main purpose is to earn money to improve their lives and the lives of their families in their country of origin. I pay them as I do my other workers, not the minimum I was told I could, but the top of the pay scale for the seafood industry. I deduct their taxes including Social Security and pay unemployment, even though they do not claim it.

I sincerely hope that you will continue to support the H2 B workers program and to strengthen the program by increasing the quota. The future of the seafood industry is dependent entirely on this program. It is important that our industry remains strong and healthy for the welfare of the State of Virginia.

Sincerely,

TOM STEVENS.

The other letter is from Bevans Oyster Company, Inc., in Kinsale, VA, a small community:

I am Ronald Bevans, President and owner of Bevans Oyster Company. My company relies on the Federal H2–B temporary foreign visa program to provide the legal, reliable, seasonal labor which my company needs in order to stay in business. We have used this program since 1996 to obtain fish packers from March 1 to December 31. Our workers, for the most part, return to us each year. Some of them have been with us since we started the program in 1996.

And on and on it goes. One sentence in here stands out:

Our seafood business cannot survive without the H2–B workers.

Mr. President, I strongly support this amendment, and I hope my colleagues in the Senate will join with me to help these small and seasonal businesses by agreeing to this amendment.

I ask unanimous consent to have this letter and other letters printed in the RECORD and yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEVANS OYSTER COMPANY, INC.,
Kinsale, VA, January 6, 2005.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am Ronald Bevans, president and owner of Bevans Oyster Company, Inc. My company relies on the federal H–2B temporary foreign visa program to provide the legal, reliable, seasonal labor which my company needs in order to stay in business. We have used this program since 1996 to obtain fish packers from March 1 to December 31. Our workers, for the most part, return to us each year. Some of them have been with us since we started utilizing the program in 1996.

This year we requested 110 workers. Our filing agent, Mid-Atlantic Solutions, tells us that our application is still at the U.S. Department of Labor awaiting certification to be used for the next step of the approval process. Although our application was filed as early as legally possible, it did not get to the Citizenship and Immigration Service (CIS) before the H–2B statutory cap of 66,000 annual visas was met. Consequently, we will be unable to employ our H–2B seasonal workforce.

Our seafood business cannot survive without the H–2B workers.

I make every effort to hire American workers for these positions, and have Americans working here wherever possible. However, our experience has been that there is an insufficiency of Americans willing to do the type of work required for these positions. Generally those who are hired quit within the first week. We have a loyal local workforce, but they are getting older and their number diminishes each year.

It is critical that you understand that without the help of our foreign workers Bevans Oyster Company will have to shut down and the American workers currently employed here will lose their jobs as well.

I opened Bevans Oyster Company in 1966 and have owned and operated it myself ever since. Over the years, my business has continued to grow. When the need arose for additional workers and I could not find reliable help in my area, I turned to the H–2B program to meet my seasonal labor shortfall. With the help of this program over the past eight years, my business has grown and flourished and is now a vital part of the Northern Neck community. This business is my life. By suspending the H–2B program, the government is not only preventing me from accessing my employees, it is taking my livelihood and everything I have worked so hard to build.

The lack of seasonal workers for our fish season will have a domino effect on many other people and industries. Our fish suppliers will either have to find a new market for their bait fish or dock their fishing boats. Our customers, which are located along the entire east coast and along the Gulf from Florida to Texas, who have come to depend on us over the years for their bait needs, will suffer from the lack of product, causing their customers to suffer, and so on.

As you well realize, the Virginia seafood industry is located in rural counties and provides many needed jobs for U.S. citizens in these communities. The loss of Virginia seafood H–2B workers will lead to the loss of the American jobs the seafood industry provides.

I go to extraordinary lengths to ensure that my workers are legally employed and that U.S. workers jobs are protected. The wages I pay are above the prevailing wage for this area and industry. I make sure my workers are housed in decent, safe, and affordable housing. These workers have told me that the opportunity to work in the U.S. has improved their quality of life as well as that of their families and their home communities. The money earned and returned to their home country is an important contribution to that economy. Workers build homes and educate their children. Without the H–2B program, they would never realize these dreams.

My company desperately needs some type of relief from this cap. I don't know all the answers. All I know is that we need our workers, and they need us. Please keep the H–2B program operating until a comprehensive solution to the immigration issue is reached. Thank you for your consideration of this request.

Sincerely,

RONALD W. BEVANS.

LITTLE RIVER SEAFOOD, INC.,
Reedville, VA, March 24, 2005.

To: Mr. John Frierson.
From: J. Gregory Lewis.
Re: H–2B Program.

DEAR MR. FRIERSON: Thank you for your phone call yesterday regarding the H–2B program and our needs as an employer of immigrant workers. This program has enabled us to meet our seasonable labor needs for many years. Our seasonal jobs, (crab picking, crab packing, etc.), are manual, repetitive tasks—unskilled labor.

Regarding our questions about payment to these laborers, when Little River Seafood,

Inc., hires an employee, that person, local or immigrant, completes the necessary W–4 federal withholding form and the State of Virginia withholding form. We withhold the required social security tax, and federal and state taxes on all employees. In addition, we pay the employer's share of social security tax and pay the federal and state unemployment taxes.

Though our pickers are guaranteed a wage of $5.25 per hour, which is the prevailing wage, they are paid by the ''piece rate'' per pound of crabmeat. Most pickers end up earning between $7 and $9+ per hour depending upon how quickly they learn, their level of ability, and ultimately, their productivity. All pickers, immigrant or local, are paid in the same way.

As our older local employees have retired, the younger locals do not seek employment in this field. Because we are stabilized by the use of legally documented H–28 seasonal workers, we are able to continue in the crab processing business, make crab purchases from our local watermen (some of whom are students), and keep our local workers employed, some on a year-round basis. Without the H–2B employees, our ability to stay in business, keep our local workers employed, and contribute to the economy would be severely jeopardized.

Regarding your questions as to recruitment of employees, Little River Seafood advertises each year, prior to the crabbing season, in our local newspapers. Response to these advertisements has been minimal. Our local Virginia Employment Commission is made aware of our employee needs, and of course, because we are in a small, rural community, these needs are also spread by word-of-mouth. Local response is almost nil. We have employed a few students during the summer for miscellaneous jobs around the plant, and, as mentioned, we do make crab purchases from students that are crabbers learning the business.

We certainly appreciate your phone call and your interest in learning more about the necessity of keeping the H–2B program in effect allowing countless small businesses in the United States to remain in business and continue to contribute to the economy.

Please let us know if we can provide you with further information.

J. GREGORY LEWIS,
President.

GRAHAM & ROLLINS, INC.,
Hampton, VA, January 12, 2005.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER, I am in receipt of your letter dated January 10, 2005. concerning H2–B workers for Graham & Rollins, Inc. My two sons and I appreciate your timely action in pursuit of reconsideration of our petition, however painful, it apparently is not to be. It is a shame that a small fourth generation family business must vanish because our government has become so impersonal to communicate a simple omission of just two names before closing the door and rejecting our petition irrespectively of the consequence from such an act. We have examined all options to save the company concluding that we must by June or July obtain the Mexican H2–B skilled laborers we have trained over the years. As a final act towards this object, we ask if you would consider sponsoring a bill similar in nature to the one you introduced last year exempting returning H2–B visa holders (beneficiaries/workers) from the annual FY 66,000 H2–B program cap, or raising the cap to accommodate the needs of entitled businesses that have been left out. We have reason to believe there are many small businesses such as our own faced with the same crisis, and congressional action is required to keep those institutions whole. The H2–B program was created to accomplish the work not being done in this country because of unavailability of the domestic work force to meet the needs of our work place.

Taking away the employees we have trained and become dependent upon through this program is like sabotage. This cannot and must not happen to the many small companies like Graham & Rollins affected by the reduction of the visa cap. I trust and hope you are in agreement and will expedite congressional action to accomplish exempting the returning H2–B workers or raising the cap. Please let us know as soon as possible if you are supportive of this request and if we can help by contacting our other representation.

Sincerely,

JOHN B. GRAHAM, Sr.

R&W MARINE CONSTRUCTION, INC.,
Cobbs Creek, VA, March 29, 2005.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

R&W Marine Construction, Inc. has been operating in Virginia for 38 years as a small construction business specializing in marine construction and excavation. We engage in heavy construction consisting of building piers, bulkheads, riprap (stone) installation along shorelines and landscaping work. This type of work is not easy and requires hard physical labor.

Over the years of operating my business, I have continuously dealt with labor problems. It is very difficult to hire domestic workers that are dependable, reliable and are willing to do this type of work. I have hired some excellent supervisors over the years but they can not work without the laborers. We have frequently advertised in the local and regional newspapers and also contacted the employment agencies for job referrals. We pay competitive rates and offer benefits to all domestic workers. We accept employment applications year round and only receive a very small quantity. Most of these applicants will not accept a labor position or are not suitable for this line of work. R&W Marine also recruits students for summer time positions.

We were introduced and participated in the H2B Program in 2000. It has been very successful to the livelihood of my business and has created the workforce needed to meet the work demand. The pay rates for the H2B workers are specified by the U.S. Department of Labor. The wages are subject to all state and federal taxes. These workers arrive in the spring and return to their country within 10 months of their arrival. They always return home within this time frame. I have never had a problem with a worker not abiding by the immigration policies. R&W Marine has had many of the same workers return consecutively for the past 5 years and are all legal workers.

If businesses are not able to acquire the number of H2B workers needed to operate their business, they may be forced to hire illegal workers. This will increase the problems for the Immigration Service of keeping up with who will be entering the U.S. and the security of our country. Also, if businesses are forced to shut down or minimize their services they provide to the public, there may be a significant reduction in our American domestic workforce.

I thank you for your time and consideration in this matter. Please continue to gain support for the H.R. 793, the H2B cap fix bill.

Sincerely yours,

RICHARD E. CALLIS,
President/Owner.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, first of all, if I could just say preliminarily, in order not to split the united front in support of this amendment, I am not going to get into a debate between the quality of the Virginia crabcake and the Maryland crabcake, although I must note it is the Maryland crabcake that has always held preeminence in that discussion.

Mr. WARNER. Mr. President, I object to that statement.

Mr. SARBANES. I commend my colleague from Maryland for a very innovative and carefully reasoned response to a crisis situation. This is a clear example of legislative craftsmanship that addresses the issue and does it in a way that does not open up a lot of unintended consequences or other possibilities. It does not constitute any major restructuring of the immigration laws or anything of that sort. This is really an effort in a very focused, almost laser-like way, to address this specific problem.

The problem is the following: Under the administrative set up, an employer cannot seek an H–2B visa until within 120 days of when it would be used or exercised. That means that people who need summer employees cannot come in right at the beginning of the year to seek the H–2B visas. What happened, of course, this year is people in the earlier part of the year—the winter people in a sense—came in, and used up all of the 66,000 visas that were available so people who have relied on this program over the years to carry out their businesses were shut out altogether. Of course, that raises very dire prospects for the operation of these small businesses all across the country.

We have underscored the crisis confronting the seafood business in Maryland and Virginia, but innkeepers in Maine, hotel operators in Florida, and businesses all across the country confront similar problems with respect to being able to bring in these H–2B visa workers.

This amendment maintains all the requirements that existed previously. In other words, the employers must still demonstrate they have sought to find American workers for these jobs. That is a current requirement. That is maintained in this amendment.

These employers, some of them, have made extraordinary efforts to do that, visiting college campuses, attending job fairs, exploring every possible way they can find workers. Many have gone well beyond what I think has been previously required in terms of meeting that requirement. But, they have not been able to find the workers. They need these H–2B workers.

What my colleague, Senator MIKULSKI, has done—I think in a very measured way—is, if you previously brought in an H–2B worker and that worker has then gone back at the end of the limited time during which they were permitted to come into the country to do

the job, you can, despite the fact we have now bumped up against the ceiling, bring that worker or workers that helped you meet your employment situation back in. No new worker would come into the country under this provision who had not been here before as part of this H–2B program. So, in effect, you are saying to someone: Look, you have come for the last 2 or 3 years as part of this program, so it is going to be available to you to come again. And you say to the employer seeking to bring them, you can bring back that workforce in order to meet your work situation.

In that sense, it is not an expansion of the general availability of the program. You are not broadening who can partake of it. You must have previously participated in the program in order to be able to come in again. I think that is a very innovative way to address the situation. It will enable these small businesses to function.

It is important to recognize that it is not the functioning of the particular business involved, but it is the functioning of other businesses, dependent upon the particular business that needs these workers, that will be affected most. If you cannot do the processing of the seafood, then the people down the line who depend on getting that seafood in order to do their business are going to be adversely affected as well. So there is a ripple effect that goes out through the economy which raises the threat of having a substantial economic impact, at least in some areas of the country.

I also want to underscore the amendment, as I understand it—and my colleague can correct me if this is not so—maintains all of the existing penalties that would apply to an employer who might misrepresent any statement on their H–2B petition. In other words, employers would still be held responsible in terms of how they conducted their effort. As I mentioned earlier, they are required to go through all of the necessary measures to ensure they have not been able to find available, qualified U.S. citizens to fill these jobs before they file an H–2B visa application.

This amendment is limited in time. It is limited in scope, but it would address the current crisis situation. It might not totally address it, but we are confident it would do so sufficiently to enable most, if not all, of these businesses to carry out their functions.

I think it does not raise larger questions and, therefore, because it has been very carefully developed, I think it constitutes an appropriate response to the situation we are now confronting. I urge my colleagues to support this amendment. It does the job. It does it in a very direct and focused way, and it will enable us to work through these problems while we await general revisions of the immigration laws.

This doesn't open up that particular path which I know would concern some Members of this body.

I again commend my colleague for very carefully working out an amendment. I know how much he has consulted with people in the administration and colleagues here in the Senate. I very much hope this body will adopt this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief, but at the same time I think what we have all said is very important to this issue. The H–2B class of workers is a critical component to not just the seafood industry of our coasts but to the resort industry of our country. For any of you who have ever skied in the West and met this nice young lady or man who speaks with a Norwegian brogue and they are helping you up and down the ski lift, my guess is they are class 2B. If you have met a young man or woman waiting on tables at a resort, possibly in Sun Valley, ID, they are a class 2B. The reason they are there is because they come, they build a stable presence, they are there for the period of time our resort hospitality industries need them, and it is most important that we have them.

Both Senators from Maryland have already talked about the dynamics of first that employer must seek domestic workers, U.S. citizens, and when that labor supply is exhausted they must seek elsewhere because they simply need that workforce. They come, they stay, they go home. It is a program that works well.

I am going to be on the floor later debating another program that doesn't work well: H–2A. The reason it doesn't—and it used to years ago in the 1950s; identified the worker and the work necessary and the employer. We had nearly 500,000 in those days of H–2A, known only then as the Bracero Program. It was out of the great wisdom of the Congress, and it has not worked since. This one works.

But what the Senator from Maryland is doing is bumping up the cap a little bit. Why? Because we have a growing economy, and we have a growing need. It isn't a static workforce; it is a dynamic workforce—whether it is the seafood industry, whether it is the hospitality industry, or whether it is a stone quarry mining semiprecious stones in the State of Idaho to be polished and placed in the countertops of high-end kitchens of new homes across America. That is the diversity of this particular workforce.

She has identified it. She has recognized it. It is a cap of 65,000. The cap for 2005 was reached on the first day of the fiscal year. That not only speaks to the need but it speaks to the reality of the problem.

The amendment is very specific. This amendment would temporarily exempt returning workers who have good records and play by the rules from the H–2A cap, protect against fraud for H–2B, protect against fraud in the H–2B program by adding a $150 antifraud fee, and on and on. In other words, it has some safety checks in it, but it rewards those who play by the rules—and most do. They come, they work, they go home.

That is not only ideal for our country, it is ideal for these foreign nationals who can benefit themselves and their families by coming here to work for a salary that is, of course, better than the salary they can earn in their own home country and working in conditions that meet all of the standards of our labor laws in this country. That is fundamentally what is so important.

My conclusion is simply this: This amendment provides a fair and balanced allocation system for H–2B visas. Currently, many summer employees lose out as winter employers tend to be the first in line for the B's. That was already expressed, both by the Senator from Massachusetts and by others who have spoken on this issue.

I strongly support the amendment. It is the right time. It needs to be done. We simply cannot wait. This is an issue that is very time sensitive. We can't wait until October to hire folks who are needed the first of May.

I hope that we move it quickly through the Congress and get it to the President's desk.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CRAIG. I yield briefly, yes.

Mr. SARBANES. The Senator made the point that this addresses those workers who have played by the rules. In other words, they have come, they have worked, and gone back. They have met all of the requirements. Of course, they pay taxes while they are here. We know they are here. They are followed and documented.

But I want to add a dimension: It also addresses the employers who have played by the rules by seeking to get their workers through the system legally.

Mr. President, I will read from the article in the Baltimore Sun:

> Despite their frustration, the owners say they will not turn to an obvious alternative work force. ''I am not going to hire illegals,'' said one of the owners. ''It is against the law.''

He made the point that they have done everything legally. This H–2B program is a win-win situation. The workers pay taxes, the Government knows who they are, and they get checked at the border. So you have employers who want to play by the rules and employees who have played by the rules. This amendment focuses on them and gives them a solution to a very pressing problem.

Mr. CRAIG. I thank the Senator from Maryland for bringing that up. What he demonstrates by that statement is a system that works. But he also demonstrates that the other Senator from Maryland has recognized that when pressures build and limits are met, you turn the valve a little bit and let the pressure off and let the legal system work, quite often in H–2A.

Last year, 45,000 people were identified. But 1.6 million are in the workforce. We had a system in H–2A that worked like this, and we were sensitive and constantly working to adjust it. And we wouldn't have an illegal, undocumented problem that we will debate later tomorrow or next week. This is a system that works, but it also is one that we have been sensitive to and have been willing to adjust the cap so everybody can effectively play by the rules and meet the employment needs they have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin my remarks by commending the Senator from Maryland for her work on this very important issue. She and I, along with Senator GREGG of New Hampshire, Senator KENNEDY from Massachusetts, and many of our colleagues, have joined forces in a bipartisan way to address an issue that affects the small businesses in our States.

Many American businesses—particularly those in the hospitality, forest products, and fishery industries—rely on seasonal employees to supplement their local workers during the peak season. That is certainly true in my home State of Maine. We have many seasonal restaurants and hotels that need to greatly expand their workforces during the summer and fall months. Many of them, after fruitless efforts to hire American workers, have found that it has worked very well for them to hire in the past foreign workers under the H–2B visa program. But this year all 66,000 available H–2B visas were used up within the first few months of the fiscal year—in fact, in early January. The Department of Homeland Security announced that it would stop accepting applications for H–2B visas. This creates a particular inequity for States such as mine that have a later tourism season. By the time Maine restaurant owners, hotel owners, and other tourism-related small businesses can apply for these workers, there are no more visas.

My colleagues from Maryland and Idaho have raised very important points. These are workers who often return year after year to the same familiar family business in Maine. When their work is done, they leave and return home to their home countries. They play by the rules. The businesses play by the rules. They are not hiring people who are here illegally. They are hiring people through this special program.

Without these visas, employers are simply going to be unable to hire a sufficient number of workers to keep their businesses running during the peak season. Many of these businesses fear this year they will have to decrease their hours of operation during what is their busiest and most profitable time of year. This would translate into lost jobs for American workers, lost income for American businesses, and lost tax revenues for our States.

These losses will be significant. We must help them be avoided. That is why I have worked with my colleagues in introducing the legislation upon which this amendment is based. It is the Save Our Small and Seasonal Businesses Act of 2005. It would offer relief to these businesses by excluding from the cap returning foreign workers who were counted against the cap within the past 3 years and to address the regional inequities in the system. It would limit the number of H–2B visas that could be issued in the first 6 months of the fiscal year to half of the total number available under the cap.

By allocating visas equally between each half of the year, employers across the country operating both in the winter and the summer seasons will have a fair and equal opportunity to hire these much-needed workers.

Let me emphasize what, perhaps, is the most important point in this debate. That is, employers are not permitted to hire these foreign workers unless they can prove they have tried but have been unable to locate available American workers through advertising and other means.

As a safeguard, current regulations require the U.S. Department of Labor to certify that such efforts have occurred. In Maine, as in other States, our State Department of Labor takes the lead in ensuring that employers have taken sufficient steps—including advertising—to try to find local workers to fill these positions. Indeed, that is the preference of my Maine employers. They would much rather be able to hire local workers. Indeed, they do hire local workers, but there simply are not enough local people to fill these seasonal jobs that peak during the summer and the fall.

Comprehensive, long-term solutions are necessary for this and many other immigration issues. But we have an immediate need. The summer season is fast approaching. Tourism is critical to the economy of Maine. But if the tourism businesses are not able to hire a sufficient number of workers to operate their businesses, the economy will suffer and American jobs will be lost. It is exactly as the Senator from Maryland so eloquently explained in her statement.

We need to make sure we act now to avoid a real crisis for these seasonal businesses this summer and fall.

I salute the Senator from Maryland for her work on this. I hope my colleagues will join in supporting this amendment. This vehicle may not be the very best for this proposal, but we do need to act. Time is running out.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Maine for her remarks, along with her and her colleague from Maine for their advocacy on behalf of Maine workers. We know Maine has been hard hit with many issues.

I ask unanimous consent to add Senator DEWINE of Ohio as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I hope the distinguished chairman of the Committee on Appropriations would take my amendment or, at the very least, have an amendment tonight. There needs to be a discussion on how we proceed.

I note there seems to be no one here. I could speak on this bill, I have such passion, such fervor about the need for it that I could speak for an extended period of time, but I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from California is to be recognized following the last debate.

Mr. INHOFE. I see.

Ms. MIKULSKI. Mr. President, my amendment is pending.

The PRESIDING OFFICER. That is correct.

Ms. MIKULSKI. My amendment is pending and I recognize the Senator from Oklahoma wishes to speak. The Senator from California has an amendment.

Mr. INHOFE. Will the Senator yield?

Ms. MIKULSKI. Yes.

Mr. INHOFE. I was going to make a unanimous consent request to have a very short statement concerning S. 359. I recognize your amendment is pending, but I would do that through unanimous consent. This is the Agriculture Job Opportunity Benefits and Security Act.

Ms. MIKULSKI. If the Senator wishes to speak on another matter, perhaps as if in morning business, I have no objection to that.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. If I might, how long will this be?

Mr. INHOFE. I respond to the Senator from California, I could do anywhere between 2 minutes and an hour. Your choice.

Mrs. FEINSTEIN. I would object since I have been waiting.

Mr. INHOFE. I can make it very short.

Mrs. FEINSTEIN. Two minutes.

Mr. INHOFE. Three minutes.

Ms. MIKULSKI. Perhaps I could clarify this, Mr. President. The reason I asked for a quorum call, reclaiming my right to the floor, is so the distinguished chairman of the Appropriations Committee and I could discuss how we were going to proceed for the rest of the evening. Therefore, the Senator from California would know how

to exercise her right as the next in line.

So if the Senator from California could be patient for a minute to get clarification, he could be a time-filler.

Would that be a good way to do it?

Mr. INHOFE. That would be fine.

Ms. MIKULSKI. It is a klutzy way of talking about it, but it is, nevertheless, where we are.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I will make this very quick. And I appreciate this very much from the Senators from Maryland and California.

Mr. President, I just want to get on the record.

Last summer, I had an intern in my office from Rwanda. I have been active in Rwanda in kind of a mission thing for quite some time. She came to this country 10 years ago after the genocide that was taking place. She went through all the problems in becoming a legal resident. And, of course, she is going to actually become a citizen.

I have been privileged for a number of years to be chosen to speak at the various naturalization ceremonies in Oklahoma. These people go through all of the procedures. I daresay that most of those who go through the naturalization process become better citizens than some who are born here.

Certainly, they know more about the history of this country. That is one of the reasons I have opposed, historically, any type of an amnesty program.

Now, the one that is before us by my very good friend from Idaho has four steps of amnesty in AgJOBS. The first one is a temporary resident status, so that this jobs bill states that upon application to DHS, the immigration status of an illegal immigrant shall—not ''will,'' not ''may be,'' but ''shall''—be adjusted to lawful temporary resident status as long as the immigrant worked in an agricultural job for at least 575 hours or 100 workdays, whichever is less.

The next step is to take that same person and give them permanent resident status. The third step would be to make an adjustment not only for those individuals coming in but also for the spouses and the minor children. So we are talking about opening that gate for many more people.

Fourthly, the reentry. Now, this means if somebody left the country under any circumstances, they would be allowed to come back and go through this process.

On top of that, another thing I do not like about the legislation is it does have a taxpayer-funded legal services provision in it.

So I just want to get on record and say this is something I do not think is in the best interests of this country.

Mr. President, I do thank the Senator from California and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Reserving my right to object, may I ask what the Senator would like to do?

Mrs. FEINSTEIN. What I would like to do is put forward an amendment. I gather there will be no more votes tonight.

Ms. MIKULSKI. Well, that is what we are trying to determine. That is what I am trying to determine. I would like to have a quorum call.

The PRESIDING OFFICER. The Senator from California has the floor.

The Senator from California.

Mrs. FEINSTEIN. Yes, that is fine. I will not take long. I will just put the amendment in. I will not ask for a vote tonight.

Ms. MIKULSKI. I have no objection.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

Mrs. FEINSTEIN. Mr. President, I want the Senator to know it is my intention to vote for her amendment. I obviously did not want it on this bill, but since it is, it is my intention to vote for it.

AMENDMENT NO. 395

(Purpose: To express the sense of the Senate that text of the REAL ID Act of 2005 should not be included in the conference report)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk and ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 395:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

Mrs. FEINSTEIN. I thank the clerk. This amendment is cosponsored by Senators BROWNBACK, LIEBERMAN, ALEXANDER, LEAHY, CLINTON, and BOXER.

As the clerk has read, it is a sense-of-the-Senate amendment. It relates directly to the REAL ID Act. It is the sense-of-the-Senate amendment that attempts to bind the Senate conferees to oppose the REAL ID Act in the conference on this bill. I would like to take a minute to explain why.

First of all, this was presented to the Senate in February. It has not yet been heard by the Senate Judiciary Committee. And, once again, a very controversial bill will be considered in conference on this bill. It was put in the House bill in a preemptive way. It is there, and we have to deal with it.

I want everyone to know this bill is major in scope in what it does to change immigration hearings and much to do with immigration. It very much tightens the standards for asylum and withholding of removal. It would give judges broad discretion to deny asylum claims based on the credibility of the applicant. And possibly one reason alone could mean a negative credibility finding.

It changes the statutory requirement that an applicant must demonstrate to be granted asylum, making it much more difficult, and it eliminates judicial review by barring a court from reversing the decision of the judge or other adjudicator about the availability of corroborating evidence.

It would give the Secretary of the Department of Homeland Security the ability to unilaterally waive all laws to construct the border fence, including possibly wage and hour laws, criminal laws, labor laws, civil rights, and so on.

Now, the problem with this section—I happen to be for finishing this 3-mile stretch of California border with a border fence—is the wording in this is so broad that it appears to provide waiver authority over laws that might impede the expeditious construction of barriers and roads not just to finish the fence in Southern California but anywhere in the United States. And it would allow for no review or appeal of the decisions of the Secretary of Homeland Security relating to this.

In terms of judicial review of orders of removal, it would limit, if not eliminate, stays of removal while cases are pending. Most importantly, it would eliminate, for the first time in our Nation's history, any habeas corpus review of removal orders for both criminal and noncriminal immigrants. This is a major change. It would limit the ability of the courts of appeal to review mixed questions of law, even in cases of longtime, lawful permanent residents, if virtually any crime led to the deportation.

Further, the restrictions on reviewing mixed questions of law would apply to asylum and claims under the Convention Against Torture. Now, here is a section that causes great concern. I believe it does to Republicans as well as Democrats.

The REAL ID Act appears to essentially create bounty hunters. Let me tell you how it does that. It increases the authority of bail bondsmen to arrest and detain anyone they believe is illegal, including a financial incentive by leaving it up to a bondsman's opinion that an alien poses a flight risk which necessitates them being turned over to the Department of Homeland Security. If that is the case, the alien

forfeits his or her bond premium under very broad circumstances. Illegal aliens turned over to the Department of Homeland Security must be detained.

Now, this is at a time when immigration officials have not proven they can detain all of the aliens they apprehend today.

What this does is, it says to the bail bondsman, if you think someone is illegal, you can go after them. You can maintain custody over them and you turn them in, and they have to be detained. This is on a bail bondsman's opinion of illegality. It also would provide bail bondsmen with unfettered access to information on illegal aliens and to influence Government processes with noncitizens subject to bonding. I don't know that we should be giving bail bondsmen this authority without any hearing in the Senate or any consequential discussion in the House on this point.

It sets minimum bonds for aliens in removal proceedings at $10,000, and it prohibits the Department of Homeland Security from releasing anyone on their own recognizance who is in removal proceedings. We don't even know if we can hold everybody. This particular section, actually more than any other, causes me enormous concern, and obviously the cosponsors of this sense of the Senate.

It does a number of other things. It holds spouses and children of an alien accountable for an alien's involvement in a terrorist organization or activity, even if they didn't know about it. I don't know that we should do that without understanding what we are doing.

With respect to driver's licenses, it creates a large unfunded mandate on the States. The CBO did a cost estimate of the costs associated with implementing the driver's license provisions and estimated that DHS would spend $20 million over the 5-year period to reimburse States for the cost of complying with the legislation. But in addition, it would require States that participate in the driver's license agreement, which is an interstate database, to share driver information at a cost of $80 million over 3 years, to reimburse States for the cost to establish and maintain the database. The grand total is $100 million over 3 to 5 years.

The just-passed intelligence reform law sets up a process whereby States, the Federal Government, and interested parties will make recommendations for establishing minimum Federal standards for driver's licenses and personal identification documents. The REAL ID Act essentially countermands the rights of States in this process. Both the current law, pursuant to the intelligence reform bill, and the REAL ID Act require that States set certain minimum document requirements as well as minimum issuance standards. The difference is that the REAL ID Act eliminates the stakeholder process and proscribes a very complicated and burdensome set of requirements on States.

It also has differences between the intelligence reform bill and the REAL ID Act on the issue of driver's licenses and personal identification documents. The intelligence bill gives States 2 years to comply with minimum standards. The REAL ID Act gives States 3 years in order for these documents to be accepted by a Federal agency for official purposes.

Secondly, the intelligence reform bill requires that the Secretary of Homeland Security and the Secretary of Transportation work together to establish minimum standards for driver's licenses and personal identification documents. The REAL ID Act imposes on States what must be done.

I don't think we should do this. We passed an intelligence reform bill. We dealt with some standards in that bill. Here, without a hearing, without any committee consideration, this bill is put, by the House of Representatives, on to this supplemental and is in conference.

I don't think we should do this. The sponsors agree with me. So we have proposed a sense of the Senate that would seek to bind conferees to eliminate the REAL ID Act from this bill. That doesn't mean it is eliminated for all time. I also believe the Judiciary Committee should promptly hear the bill. We should consider amendments. We should be able to compare it in this house with the intelligence reform bill just passed and, therefore, make a decision. This is what the Senate is set up for. We are meant to be a deliberative body. We are meant to consider major and controversial pieces of legislation and, if necessary, slow them down. This is added unilaterally on this supplemental bill with no consideration by this house whatsoever. It is going to resolve itself with a very few Members of this body dealing with an enormously complicated, controversial bill that conflicts with other legislation passed by this body. We don't do our work if we let this happen.

We have proposed this sense of the Senate, and I am hopeful there will be enough votes in this body so that the conferees on the Senate side will simply not accept business being done this way. Who would have thought a major piece of immigration legislation would be placed, without hearing, on this emergency supplemental which deals with the war in Iraq and critical emergency matters? It is a big mistake.

I ask for the yeas and nays, and I understand the vote will not be tonight, but this will be put in the order.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

AMENDMENT NO. 387

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The Senator is recognized.

Ms. MIKULSKI. As I understand the regular order, the H–2B amendment I have offered is pending. I note that there are other speakers on the other side of the aisle but on the same side of the issue who wish to speak. I note the Senator from Wyoming is here and he wishes to speak. I want to continue the debate on this amendment.

The PRESIDING OFFICER. The Senator's amendment is the regular order.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the Senator from Maryland. I will briefly tell of my interest and support for this idea. I am very pleased to be a cosponsor. This is an issue we have struggled over the last couple of years. Certainly it is not the overall remedy to our whole struggle on immigration. However, this is something we do need to do now that will last in the meantime while we work on the other.

Each of us who has spoken has a little different role to play in our home States with regard to this issue. In Wyoming, it is primarily the summer season, travel and vacations, Jackson Hole, WY, and other places where this has been a very important part of providing services there. Last year, of course, we were caught up in the 66,000-worker limitation, and it was kind of unfortunate for us because, as I said, it was the summer season, and therefore, the applications didn't get in as quickly as they did in some other places where their seasons started earlier. By the time our folks applied, there were no vacancies.

I am for an overhaul of immigration. When we have the needs and we want people to be able to legally come to this country, whether it is for a short while, whether it is for a longer while, come legally, I am one who thinks illegal is illegal and we shouldn't have it that way.

We have to look at the demands and then find a relatively simple way to work through it; otherwise, people tend to try to ignore it and go around, so that doesn't work.

These small businesses are in need of some relief. They cannot find workers to do these jobs. The Labor Department certifies there is indeed a labor shortage in this case and they look to willing workers.

The Mikulski amendment is quite simple, as has been explained. It doesn't count workers to the cap of 66,000 who have participated in the H–2B program during the past 3 years. It separates the allocation to two 6-month batches 2-year temporary relief. It collects new fees for fraud prevention and detection so folks who process the applications have the skills and tools to identify fraud. We need to make these changes.

I understand the difficulty with the bill that is on the floor. I think the resolution is coming clear so we can deal with some of these issues and leave the larger, longer term solutions to another time.

Mr. President, I thank the Senator from Maryland and I look forward to a very positive vote on this issue.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I thank the Senator from Wyoming for his comments in articulating the economic issues facing Wyoming. I have had the occasion to visit there myself and I know what a wonderful State it is. I am not much of a skier; I am built a little too close to the ground for that. But this shows this is not only a coastal State issue, and it also shows it is not only a seafood processing issue; this is an issue that affects our entire country, particularly those who depend upon summer seasonal workers. We understand some of our States enjoy—whether it is Massachusetts, Wyoming, or Idaho—both summer and winter. Either way, the Senator knows that we depend on summer workers. We thank him and the Senator from Idaho who spoke, as well as others.

Mr. President, I note that the hour is late and now that the Senator from Wyoming has spoken, I am not sure if there are other people who wish to speak.

I ask unanimous consent that Senator SNOWE of Maine be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I want to get a vote on my amendment, but it is not possible tonight. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I have requests to make on behalf of managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

AMENDMENT NO. 401

I send an amendment to the desk on behalf of Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 401.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 193, line 23 of the bill, strike ''$500,000'' and insert in lieu thereof: ''$1,000,000''.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 401) was agreed to.

AMENDMENT NO. 402

Mr. COCHRAN. Mr. President, the next amendment is on behalf of Senators MCCONNELL, LEAHY, and OBAMA that addresses the Avian flu virus in Asia, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, for himself, Mr. LEAHY, and Mr. OBAMA, proposes an amendment numbered 402.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address the avian influenza virus in Asia)

On page 192, line 19, after ''March 2005,'' insert ''and the avian influenza virus,''.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 402) was agreed to.

AMENDMENT NO. 403

Mr. COCHRAN. Mr. President, I now send to the desk an amendment on behalf of Mr. LUGAR and Mr. BIDEN. It deals with an increase in funding for the Department of State's Office of the Coordinator for Reconstruction and Stabilization with an offset.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself, Mr. LUGAR, and Mr. BIDEN, proposes an amendment numbered 403.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional amounts for diplomatic and consular programs and reduce the amount available for the Global War on Terror Partners Fund)

On page 171, line 13, strike ''$757,700,000'' and insert ''$767,200,000''.

On page 171, line 21, after ''education:'' insert the following ''*Provided further*, That of the funds appropriated under this heading, $17,200,000 should be made available for the Office of the Coordinator for Reconstruction and Stabilization:''.

On page 179, line 24, strike ''$40,000,000'' and insert ''$30,500,000''.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 403) was agreed to.

AMENDMENT NO. 404

Mr. COCHRAN. Mr. President, I now send an amendment to the desk on behalf of Mr. LEAHY regarding environmental recovery activities in tsunami-affected countries.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 404.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify language in the bill relating to environmental recovery activities in tsunami affected countries)

On page 194, line 7, delete ''Aceh'' and everything thereafter through ''Service'' on line 9, and insert in lieu thereof: ''tsunami affected countries''.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 404) was agreed to.

AMENDMENT NO. 405

Mr. COCHRAN. Mr. President, I send an amendment to the desk on behalf of Mr. LEAHY requiring a 5-day notification to the committees on appropriations for tsunami funds.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 405.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

(Purpose: To require five day prior notification to the Committees on Appropriations for tsunami recovery and reconstruction funds)

On page 194, line 19, after colon insert the following:

Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds:

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 405) was agreed to.

Mr. COCHRAN. Mr. President, I thank the Senators.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 406

(Purpose: To protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Indiana [Mr. BAYH], for himself, Mr. CORZINE, and Mr. PRYOR, proposes an amendment numbered 406.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BAYH. Mr. President, I rise to support a cause which is essential to the continued prosecution of our war on terrorism. It is essential to preserving our National Guard and Reserve as a vital force in defending our country, and it is essential to defending our moral obligation to those who defend our Nation.

No one—particularly those citizens who have placed themselves in harm's way at our bidding—should be forced to choose between doing right by their loved ones and doing right by our country. The amendment I have submitted will prevent that moral tragedy from happening.

What I refer to as the patriot penalty—the cut in income those who are called to active duty in our Guard and Reserve must suffer—has become a very serious problem. We now have about 180,000 Active-Duty Guard and Reserve personnel; 40 percent of the forces in Iraq have been called to active duty from the Guard and Reserve. The deployments are now lasting longer on average than any time since the Korean war.

Since that conflict, it had been our practice to not summon the Guard and Reserve for active duty for more than 6 months. Today it is routine they are called to service in Afghanistan, Iraq, and elsewhere for longer than that period of time, making these deployments not reasonably anticipatable on behalf of these individuals and their families.

Mr. President, 51 percent—more than half—of the guardsmen and reservists who are called to active duty suffer a loss of income, the patriot penalties. The average loss is $4,400 per citizen soldier—a material amount of money for the average American family. The General Accounting Office in a recent study indicates that there is growing financial strain on these families, even up to bankruptcy. It is morally unacceptable. It is unacceptable from a national security standpoint and from our obligation as fellow citizens that those we place in harm's way and ask to make the ultimate sacrifice physically should also be asked to make the ultimate sacrifice financially.

That is what this amendment would stop. It is hard, not just for the soldiers and their families involved; it is also undermining the vitality of the Guard and Reserve and the essential role they play in service to defending our country. Fully five out of six of the Reserve branches did not meet their recruiting goals in the most recent period. General Helmly, the head of the Army Reserve, has described the Army Reserve as a broken force. At a time when we are relying upon our Reserve and our Guard men and women more than ever before, they are on the cusp of becoming, according to their commander, a broken force. We must not let that happen. Of the 78 percent of these individuals who are considering not reenlisting in the Guard and Reserve, fully 75 percent, three-quarters, cite the loss in income as a material factor in their decision to not reenlist.

Many laudable firms in my State and, I am sure, in the State of Mississippi, the State of South Carolina, and elsewhere, are doing their part. About one-third of employers are seeking to make up this penalty, the patriot penalty, on their own; 23 States are helping. It is important we do our part as well.

Our amendment would provide, after someone has been called to active service for more than 6 months—therefore a period of time more than was reasonably anticipatable—for up to $10,000 in lost income be made up for these individuals, meaning that more than 95 percent of those who suffer this penalty would be made whole.

We provide incentives for the two-thirds of employers currently not contributing to making up these penalties, for them to do their part as well, making it a public-private partnership. The cost over the next 5 years is estimated to be about $535 million. Given the scope and the magnitude of the undertakings in Afghanistan, in Iraq, the costs we are incurring for so many other activities, including to try to train, equip and put into place Afghans and Iraqis to defend their countries, this is well within our budget. This is well within what we can afford as a country, to do right by those who are attempting to implement freedom abroad, to ensure that they can do right by their loved ones and their families at home.

Objections, of course, are raised to anything in the Senate. The principal one is that it will lead to an inequality of pay to those on the battlefield, permanent Active-Duty personnel versus Reserve and Guard men and women who have been called to serve by their side. These are unequal circumstances. As I said, for those who are Active-Duty and have made that commitment to our country, they can plan for that circumstance. For those in the Guard and Reserve who have been called to service for a period of time that was not anticipatable because it is longer than any time in the last half century, they require and deserve somewhat different treatment. I simply say, we do not call upon our Active-Duty personnel to take a cut in pay when they enter combat. We should not ask our guardsmen and reservists to take a cut in pay when they do likewise. That is why the patriot penalties must be made up.

In conclusion, we should find it within both our hearts and our wallets to do right by those who defend our country. It is important to the fight against terrorism. It is important to the preservation of the Guard and Reserve as a vital component of our Nation's security. It is important and essential that we fulfill our moral obligation to those we have called to duty so that they can do right by their loved ones, just as we are asking them to do right by their company.

I respectfully ask for my colleagues' support of this urgent and worthwhile initiative.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill H.R. 1268 amendment No. 398, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 231, after line 6, add the following:

TITLE VII—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

SEC. 7001. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

SEC. 7002. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the ''Special Committee'').

SEC. 7003. PURPOSE AND DUTIES.

(a) PURPOSE.—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) DUTIES.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) EVIDENCE CONSIDERED.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

SEC. 7004. COMPOSITION OF SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) VACANCIES.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIRMAN AND RANKING MEMBER.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) QUORUM.—

(1) REPORTS AND RECOMMENDATIONS.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) TESTIMONY.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) OTHER BUSINESS.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

SEC. 7005. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF SENATE.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 7006. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) HEARINGS.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) MEETINGS.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

SEC. 7007. REPORTS.

(a) INITIAL REPORT.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 7003 not later than 270 days after the appointment of the Special Committee members.

(b) UPDATED REPORT.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) ADDITIONAL REPORTS.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 7003.

(e) DISPOSITION OF REPORTS.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. 7008. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—

(A) IN GENERAL.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) MAJORITY STAFF.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) MINORITY STAFF.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) NONDESIGNATED STAFF.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) COMPENSATION.—

(1) MAJORITY STAFF.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) MINORITY STAFF.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) NONDESIGNATED STAFF.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

SEC. 7009. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

SEC. 7010. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

Mr. DORGAN. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill H.R. 1268 amendment No. 399, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following:

SEC. ____. (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

Mr. KERRY. Mr. President, this debate on emergency funding for our military wouldn't be complete if we did not begin to address the crises military families face at home as well as abroad.

I am proud that the Senate has passed my two amendments, one to allow families to stay in military housing for a full year after the death of a spouse, the other to ensure all military families receive $500,000 in total death benefits when a loved one dies in service to America, but I am also deeply moved by the stories I have heard from across our country in the last 24 hours about the challenges to military families every day.

Yesterday, I sent an email to Americans asking them to share their stories—of husbands and wives, sons and daughters, neighbors and friends who serve their country with courage but have been left on their own by our policies here at home. Within hours over 2,000 Americans sent me their stories. They took time out of their busy days to share their stories on the hope someone would listen. Their voices must be heard in the halls of Congress. Today, I enter a small sample of their stories into the CONGRESSIONAL RECORD to prove we are listening, and hope that today's victory marks a new beginning, and that soon Congress will answer all their prayers and pass a comprehensive Military Families Bill of Rights.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Alan Neville—Aberdeen, SD

This is a story about my own family. In January 2003, my wife was called to active duty with her Army National Guard unit. She was inactive status and a mere 7 days from being completely out of the military when she was mobilized. She went from being a civilian attorney to a Sergeant/E–5 administrative clerk at a significant loss of pay. At that time, I became a single parent to four young children for one full year. In August 2004, I too was called to active duty with my Army Reserve unit. I went from being a university professor to being a Sergeant First Class/E–7. Once again, our four children were without one of their parents during their critical stages of development. We've done our part, now it's time for others to do their part. The burden placed on the National Guard and Reserve forces seems extreme. The morale among more seasoned soldiers, those with 10 to 20 years of service, is not good. Many are getting out of the military at the first available moment.

Jack Cooper—Corpus Christi, TX

This is a story about a young couple in Austin, Texas. The husband works for Home Depot and was called up in the Marine reserves. There are two young children, both girls. One of the girls has Job's Syndrome. Home Depot did not continue the family's insurance.

They had to go out and pay ridiculous rates for additional health insurance to cover the child. That was money they could not afford because Home Depot did not pay his salary while he was gone. The child was in the hospital for much of the time the father was in Iraq. The mother had to take off from teaching to stay with the child in the hospital. She used up all vacation and sick time, and then was docked pay for lost time.

We are not taking care of our soldiers or their families.

Doris Fulmer—Albuquerque, NM

I just lost my husband on February 11. He was a navy pilot for 28 years. He paid on my SBP for years, and now I can hardly get by, and waiting for the increase in October is going to be difficult. I will have to sell my house to survive. It appears they are waiting for us to die to . . .

Not enough is being done for the active duty veteran. I don't see how the administration can be so tight with the veterans and their loved ones while we wage war in a foreign country and pour in millions of millions of dollars.

Stephen Cleff—Haddenfield, NJ

This past Christmas, my uncle was called into service in Iraq. He has served this country in Vietnam and when he returned continued to serve as a policeman.

My uncle is 58 years old. This is an example of how stretched our armed forces are because of the current policies of the President and his followers.

His current service not only required that he miss Christmas with his family, including his father who was very ill, but more importantly, it required that he miss his father's funeral. His wife is now alone in their house, waiting for his return. I do not know the specifics of their finances, but I do know that they relied on his income as a police officer.

I wonder how easily our current majority leaders would send people into combat if they had to survive on the same benefits.

Christopher Perkins—Burnham, ME

Here in Central Maine we have a young man, Fred Allen who, like myself, volunteered to be a paratrooper and served in both Afghanistan and then in Iraq.

He was grievously wounded in both legs in Falluja, a name we all know from the news. He spent a good deal of time in the hospital getting back on his feet and continues his healing and therapy at home. According to his mother he is receiving little in the way of compensation or direct help.

I can draw a strong parallel here with my personal experience in the Army.

I enlisted in 1967 at the height of Vietnam and also went Airborne. I served with the 3/506th Airborne Infantry ''Currahees'' of the 101st Airborne Division in 1968–69. I was a radio operator and then a machine gunner in the field. I received the Combat Infantryman's Badge, Jump Wings, Air Medal and the Bronze Star with ''V'' Device for heroism in ground combat.

After my return home my best friend was killed in Vietnam and I began to have serious problems with nightmares, depression etc.

The army's answer at the time was a ''resignation for the good of the service'' Sign here and you can go home.

In the 1980's there was a greater awareness of the problems veterans were having and programs were developed, but for over 15 years we were on our own. Many good soldiers didn't make it.

Thanks to Senators Mitchell and Cohen I was finally able to receive PTSD treatment and treatment for arthritis and a disability award.

It is my greatest hope that our younger brothers will not have to wait so long for their help. I once wrote a critique of the PTSD program at VAMROC, Togus, Maine for Senator Mitchell. This was my final remark.

''We who placed our lives in the balance, and were not found wanting, ask for no more than that which is our due, to be treated with dignity, honor and respect.''

Pamela Goers—Romulus, MI

My stepson is in the Navy stationed in Washington State. He finds it so extremely hard to take care of his family on his pay that he was willing to volunteer to go to Iraq [again] because of the bonus offered and how much his family would benefit from it. This is just wrong. The military men and women put their lives on the line for us; the least we can do is ensure that their families are provided for.

James Tate—Coon Rapids, Iowa

I have 2 sons in Afghanistan, deployed for 1 year duty with the 168th Infantry Iowa National Guard. The younger has had the misfortune of having his marriage disintegrate in his absence and he has no assurance that his construction job will be available on his return. The older has a contract detassling business for 2 Iowa seed corn companies. This is a very seasonal business and Mike has suffered a $60,000.00 loss of income from the business. In his absence his wife and I had the responsibility of keeping the business going but the companies involved were fearful that in his absence we would not be able to handle the number of acres he normally completes. Consequently they cut the allotted acres by ½. Much of the fixed expenses of running such an operation remain the same regardless of the total acres performed. Normally the business returns approximately $70,000 above expenses. Last summer the return was less than $10,000.00. Besides, there remains a question of whether or not the companies will make the normal acres available in the future or if they will give them to the other contractors that filled the void this past summer.

My wife and I raised and educated 11 law abiding, tax paying American citizens. This administration has created a situation that for the first time in nearly 70 years leaves me ashamed of what my country is doing in the world.

D. Bottoms—Oregon, WI

My best friend Kurt Jerke, age 31, is a captain in the Indiana National Guard. He was a Ph.D. graduate student in the Department of

Biological Sciences at Purdue University. In his final year for his Ph.D. degree, he received orders to leave for Afghanistan. At this time, his wife Katie had just giving birth to his first son. Kurt left when his son was only two months old. Katie has been in a daze ever since Kurt left for Afghanistan with managing her job, daycare and caring for her child, while maintaining there house all as a single parent. They're son, Cade, is now a year old. He's a walking, talking, cute little guy. Kurt missed his son's first year and Kurt still has no end in site. Kurt has no idea when or if he's coming home. Kurt has no idea if he's staying in Afghanistan or if he's going to Iraq . . .

Sandy Fox—Cleveland, OH

As a 6-year member of the Ohio National Guard, my son was within one month of completing his obligation when he was notified that he could not leave the service. He is now in Baghdad, much to the dismay of the entire family.

He has two sons, ages 2 and 4. He discovered the week before he shipped out for Iraq that his wife is pregnant with a daughter . . . the first female in our family for quite a long time. His wife is a nursing student who also has a part-time job. Not only has his departure caused emotional upheaval for the entire extended family, he was the major ''breadwinner'' for his nuclear family.

Knowing that she could not afford to keep up payments on their apartment, their vehicles, etc., without his income, she approached the military for assistance. She was told that there was nothing they could do for her. . . that she would have to turn to her in-laws for help to sustain her and her family while her husband was serving our country.

In summary, this poor pregnant woman is living in the basement of her in-laws' home with her two sons because the military and our government turned their backs on her. Their atrocious treatment of the military personnel, their families and our veterans belies all their public rhetoric about family values and moral integrity. It's disgraceful! I don't know how they sleep at night.

Kara Block—Jamaica Plain, MA

My brother is a lieutenant in the Marine Corps. He has been on two tours of duty to Iraq and is about to deploy for the third time, this time to Afghanistan.

Since 9/11, our family has been continually shadowed with the threat of losing my brother on one of his deployments. He was on the first wave of the invasion in March 2003 as part of the 1st Light Armored Reconnaissance that forged ahead to Tikrit. On that first Iraq deployment, we did not hear from our brother until it was time for his battalion's return to the States. He called my parents via a satellite phone before heading back, to ask them to wire $200 for a phone card to call home from the ship that carried them homeward. The U.S. government does not pay for its troops to keep in touch with their families while deployed.

On his second deployment to Iraq, my brother called home to ask for a particular kind of field binoculars, as those that should have been standard issue to him had not been provided. These binoculars cost my parents $500, and were obtained only with great difficulty [incidentally, per Newsweek in 2003, the average American troop spent over $2000 outfitting himself/herself with safety and field gear]. For many other military families, the purchase of this necessary safety-enhancing instrument would be prohibitively expensive.

In January 2004, when much media ado was made about the lack of armor in the Humvees contributing to many unnecessary roadside fatalities from IEDs, President Bush made a statement assuring all military family members that the troops would receive proper armor by March 2004. However, upon their return, several Marines Lieutenants informed us that the armor did not arrive till June/July 2004; despite the battalion's mission being to escort military and civilian convoys—a highly dangerous duty that took them all over IED-infested roads of Iraq. The Marines also cited a shortage of flak-jackets on their first deployment.

The ordeal of enduring those long, dangerous deployments (especially cognizant of the lack of armor/equipment) and perennially bracing for bad news is too great to recount here. Needless to say, these last few years have taken an extensive toll on the health and happiness of this family, which I consider as much of a sacrifice for this nation as the military service of my brother.

Despite the outcry of his family against such things as his inadequate training for the jobs with which he was tasked, lack of armor and other safety-enhancing equipment [and despite the acknowledged fact that he and his men faced death at every moment at the behest of a president who lied us about the reasons for war], my brother has volunteered to extend his time in the Marines and to deploy for a third time in two years. Were I a poet I would better describe my boundless pride in him and all our troops. Heartbreakingly, he and all the other troops who give so much for this country ask so little in return.

We celebrate the heroism our troops with homecoming parades, yellow ribbons and imposing bronze memorials. But we as a country [especially in Congress] should put our money where our mouth is and increase combat pay, grant our Veterans adequate health care and other benefits, and take care of the families of the fallen or injured (e.g., access to good education for their children). THAT would be a meaningful demonstration of our respect and appreciation for their sacrifice. Our troops deserve no less.

Theresa Grof—Agawam, MA

My husband was activated in 2001 after 9/11. His pay was so low as a technical sergeant in the U.S. Air Force Reserves that we are now 20,000 dollars in debt and have no way out. My husband has served his country many times, he is a Gulf War Veteran, Operation Enduring Freedom Veteran, and an Iraqi Freedom Veteran. He has 14 years in the United States Air Force Reserve, but the pay is so low and the benefits being slowly eroded away that he is no longer sure if he wants to make it to 20 years. He sees his unit falling apart and wants to stay but with cuts in benefits and our debts mounting (we have also both attended college on our GI Bills during these activations) that it just does not seem feasible to stay in the reserves any longer. His unit is losing more and more longtime reservists every week. The unit is becoming undermanned and when they get a new recruit, which is not very often, the person is not well trained enough to really help. This problem of losing long serving military men like my husband will affect the military's mission. Retaining these men is important and passing a bill to help those of us so in debt because of continuous activations should be a major priority at this time. I am very proud of my husband and I see his determination to keep serving his country but soon there will be no reason to stay.

Mark Vaughn—East Greenwich, RI

I am in the U.S. Army Reserve and have been deployed 4 times in 8 years. I have missed almost 36 percent of my daughter's life while deployed. When not deployed I am an adjunct college professor and, until recently did not make enough to be able to afford health insurance. The only time I and my daughter were covered was while I was deployed. While I believe that is would be cost prohibitive to provide all Reserve and National Guard soldiers health benefits, it would be the right thing to do to provide them a health plan which they could buy into (co-pay). This plan would cover them and their families whether or not they were deployed. In addition to providing the families of our soldiers, sailors, marines and airmen a benefit it will also help keep them healthy should they be called up. I believe that it would also provide a strong incentive for recruiting. Just a thought.

Heidi Behr—Orlando, FL

I work as a social worker at a local elementary school in Maitland, Florida. We have some kids in our school whose parents are serving in Iraq and Afghanistan. I know of many families (some at our school and in our community and elsewhere around the country) who are struggling to make ends meet financially because they are not receiving adequate compensation while their loved ones serve in the Armed Forces. Many of the families who have members in the National Guard are dealing with the double blow of loss of pay while also now not having their husband or wife at home. I think it is criminal that our government calls these national guards up without compensating the family for their lost wages and insurance. If a family was dependent on this guard member's insurance through their civilian job, many times those families have now lost health insurance. This is not right and needs to be taken into account by the government when they decide to call these men and women back into service.

Carrie Philpott—Eugene, OR

My son joined the Marine Corp in November of 2002. He enlisted with the hopes that he would be able to fulfill his dream of attending college and earning a BA degree in Criminal Justice. Other than the GI bill, no other funds are available to him for higher education He has just spent a month at home with me after being injured while serving our country in Iraq. He had the time to study his military benefits package and look at what university he would be able to attend. Imagine his disappointment and frustration to find that his GI bill will only cover 1.75 years of an undergraduate degree at a state university that doesn't even offer a degree in his field of study. He has now returned to his unit to complete his 4 year enlistment only to be told that he will have to go back to Iraq in Aug. '06.

Along with his physical injury, my son had nightly nightmares, screaming out visions that could only have come from his battle experiences. I wonder what else he will have to endure for the price of an education?

Kathy Hartman—Loveland, CO

This is a story in reverse to what you are seeking. I have a nephew serving in Iraq who works as a security guard for a private contractor. He receives approximately $18,000 per month and has all of the finest in equipment and security. He received his training as a Ranger in the U.S. Army but now serves as an employee of a private contractor.

My question is, why isn't every soldier employed in Iraq able to receive the salary, benefits and equipment that this ''soldier'' does? Why have we contracted some of this war out to the highest bidders, using our tax dollars to pay some of our soldiers a more-than-decent wage while our ''grunts'' fight and die at minimum wage? I do not understand this inequity except of course for the fact that we have now set up wars and military expenses to benefit large corporations even more than they have benefited in the past.

Don't get me wrong. While I do not believe in this war, I do believe that all those in

harm's way should be equitably compensated, trained and outfitted. I would rather that all soldiers be compensated at a wage befitting the horror and danger they experience.

Clearly the private contractors are able to pay generous compensation in addition to making generous profits. This is wrong.

Nada Smith McLeskey—Columbus, OH

I was married for 28 years to my first husband who for 21 years served our country in the United States Air Force. He continues today serving our country by teaching your high school students leadership by serving with the JRAFROTC Program in Salt Lake City, Utah. Our daughter served for 6 years in the Utah Air National Guard and today our son serves our country in the United States Air Force in the Special Forces branch. Our son has already seen one tour of duty to the Middle East. He is married and a father of 3 children. He is an enlisted service member. His wife was forced to stop working because their childcare far out weighed the income she could bring home and the subsistence allowance program was cut by the Bush Administration. They now live in base housing but none the less, their income for a family of five is roughly $2000 per month. By the time their bills are paid, there is little left for them to buy groceries or enjoy the luxury of maybe going out to a movie or to eat. I send them what I can per month to help out. I know what it is like to serve our country and have to live on an extremely tight budget. My daughter in law would love to work so they can pay off their debts and have extra money, but with 3 children under the age of 6 it is impossible as childcare would eat up all her wages. Thank you.

Doug Brewer—Tacoma, WA

My daughter is best friends with a 16 year-old whose father is a reservist. He was deployed to Iraq, leaving behind a 12 year-old autistic child, who needs the care of two parents to even have a semblance of a quality of life. The father is in Mosul, a very dangerous place, ostensibly for a year, but we all know how that length of time has tended to expand. I can't tell you how many tears this family has shed over the father's safety, the one parent's frustration of raising an autistic child (among two other siblings), as well as the financial pressures of having the main bread-winner gone. Why? For what purpose?

Katie Laude—Beaver Dam, WI

My husband is a reservist currently serving in Afghanistan. He served his 8 years of military service after getting an ROTC scholarship for college. After finishing his two years of being a company commander he went on IRR. After September 11th he was given the advice to join back with his unit or risk being ''cross-leveled'' into another unit where he wouldn't know the troops.

Well, as it turns out, he did join his old unit again but was still cross leveled to a unit in St. Cloud, MN (we live in southern Wisconsin). We have three boys (ages 9, 6 and 1). I had our third son after my husband had left. To make it worse, I have NO family support group unless I want to drive over 5 hours to the unit in Minnesota. I have had to hire out virtually everything around our house (lawn, snow removal, home maintenance, etc). After taking a year leave from my job after the baby was born, I felt I had to go back to work. So I am now working full time as a teacher and raising three kids with no husband.

Linda Brown—Bunker Hill, WV

Our daughter is in the MD Air National Guard as well as a full time college student. We still carry her on our medical insurance. She has been deployed twice in the last 3 years each time putting her education on hold. Her boyfriend works full time at the WV Air National Guard but does not have medical insurance. My daughter became pregnant but is unable to marry her boyfriend because he does not have medical insurance. There is no way she could marry him and then have the baby with no insurance. I advised her not to, what if something happened to her or the baby? We cannot afford to pay out of pocket and we make too much money to qualify for Government aid. We would like our daughter to be married and she would like to be also. Her boyfriend has checked into private insurance but at $800 a month they can not afford it. My daughter served in Qatar in Operation Enduring Freedom as did her boyfriend. He flies almost every week doing missions for our government but is not offered insurance! It makes me so mad, most of our government officials don't care about healthcare for others because they will never have to worry about themselves.

Gail Mountain—Gloucester, MA

Like a lot of stories about abuse and mistreatment, despite the specific issue surrounding that abuse and mistreatment, proving it is very difficult.

Nonetheless, I would like to share my suspicion of mistreatment of my nephew as a member of the Air Force reserve who lost his job in the U.S. upon his return from a 3-month assignment in Kuwait, perhaps a year ago.

He had been getting subtle messages for months from his employer that his need for time off to accommodate his military training was not appreciated.

When he returned from Kuwait, he was ''let go'' under what I believe to me the guise of his inability to do his work.

He believes, and so do I, that he lost his job because of the time it took for him to serve his country.

He will never be able to prove it, but I think we need to also find a way to insure this does not happen to those who choose to serve our country, yet still need to earn a living.

This young man continues to diligently working on his master's degree and to take every opportunity to get as much military training as he can so he can become a part of the investigative branch of the Air Force because he loves his country and because he wants to participate in the safety of it. I hope a part of your work will be to also insure that our reserves and our national guard are taken care of by the country they choose to protect.

Sarah O'Malley—Castine, ME

This story is of a man in a town near by, the nephew of a friend, a high school classmate. Harold Gray was in the National Guard, the 133rd Engineering Battalion from here in Maine. He was injured several months ago by a road side bomb, getting hit with shrapnel in the head and shoulder. Shrapnel destroyed his eyes and lodged in his brain.

Harold was in a coma for quite a while at a military hospital in Washington. His wife traveled to DC to be by his side, and his three young daughters are staying in their home community with family. Harold's wife is a manicurist with no benefits, when she doesn't work, she doesn't get paid. She hasn't been working for months now. In every store you go in around here, there is a coffee can with Harold's picture, collecting spare change to help support his family. This soldier's family is living off good will and spare change.

As a Guardsman, I don't know what kind of extended support Harold and his family can expect. The best case scenario for Harold's situation would be a full cognitive recovery, but with total blindness. This is however, extremely unlikely. Harold will live the rest of his life with shrapnel in his brain, and the severe cognitive deficit that goes with it, as well as the loss of this sight. As a Guardsman, not a member of the Army etc, I fear that his family will fall between the cracks, and through loop holes and bureaucracy not receive the benefits (however paltry) that regularly commissioned soldiers are entitled to.

Jean Harris-Letts—Middleburg, FL

I am a physician in a town where many of my patients count on military benefits.

For Medicare recipients, most of the time both Social Security checks go for food and rent, while hopefully the service connected spouse will be able to get his or her medication from the Veterans Administration. The non-military spouse will have to get samples of meds or often go without.

My younger patients whose spouses are in the military are in an only slightly better position . . . It baffles me how anyone could countenance cutting military benefits in a time of war, when so much depends on morale.

The patients to whom I refer are not deadbeats. They are hard working people, who are just not being properly compensated, and find only twenty four hours in the day when they try to do more.

George Cleveland—Milwaukee, WI

I am a Vietnam era vet with severe back pain, lumbar/sacrel facet degeneration. I was completely independent when President Clinton was in office. When President Bush got in office and reduced V.A. funds. They took away my pain meds, which where 6–5mg Percocets and 2–10mg Oxiocotins. It's gotten to the point that I can't walk with my grandchildren anymore. I'm 58 years old and poor with no other insurance I've talked to other vets with similar problems. We've basically been told that we are not worth the price of our meds. What's going to happen 40 years from now when the vets from Iraq still need help will they be forgotten to? Just go to any V.A. Hospital in this country and talk to the vets sitting in the smoking area and ask. This will probably screw me pretty bad but at this point I just don't give a damn.

Holly Ortman—Fort Benning, GA

My name is Holly Ortman. Not only am I a nurse in the US AF Reserves (inactive now), but I am also a spouse of an active duty soldier in the US Army and a mother of 4. I am highly educated and was working on my Practitioners Degree. I have always stood behind our government and its decisions, but as of late, I feel that my support is dissipating due to the government's lack of support for the military families and the military child. When our son was 6 months old, my husband was given orders to deploy to Afghanistan with the 10th Mountain Division. At the time I was an ICU Nurse manager at the local hospital. At this point in our lives, we only had 3 children. Due to the demands of being a mother of 3, one of which was only 6 months, and an acting single parent due to the absence of my husband, I had to step down as the nurse manager and work in the ER as an emergency/trauma nurse. This was very short lived because in the state of New York nursing is unionized, therefore everything works off of seniority. That left only night shifts open for me to work. Because finding a trustworthy person to come in at night and watch 3 children and get 2 of them ready for school the next morning is so difficult I had to totally resign my nursing position. Just so you understand the seriousness of this let me explain that before I resigned, our family income was close to $4500.00 a month. Because I could not work

due to the military deployment, our income fell to less than 1800.00 a month. This qualified our family for W.I.C., and other forms of public assistance, which we had never needed before, but desperately need now. During his deployment, my husband re-enlisted for another 6 years. He is a very patriotic man and he wanted to do what he felt in his heart was right. We toughed it out and my husband came home in May of 2004. Shortly after his return, we found out we were pregnant with our 4th and last child. He then received his orders for Fort Benning, Georgia. We relocated to Fort Benning and upon his First day of reporting and 6 months TO DO THE DAY of his return from Afghanistan he was told to collect his CIF gear, he would be leaving for Iraq by January and that they needed his combat experience over there. We were devastated, as the birth of our last child was due in February and we were hoping to financially catch up by me going back to work. Due to the fact that my pregnancy was high risk, he was allowed to stay behind until the baby was born. He is now leaving for Iraq this Saturday. My career, in a field that is in dire need of experienced people, will once again be on hold, and we will have to scrape by yet again due to the minimal amount the government pays my husband to leave his family and put his life on the line. I was so disappointed in my government when I heard that many wanted to decrease the deployment pay. We are barely making it as it is and without that pay we would literally be in dire straights. Now there is talk of decreasing the amount of the yearly raise to help the budget. Both of my oldest children go to a military school and it has been a God send. They have deployment groups for them and a counselor to help with the transition, which was very hard during the first deployment. These schools know how special a military child is. Now Donald Rumsfeld wants to shut down our military schools. How much more can you people keep taking from us before you realize that we have nothing left to take? I cannot even repay my government student loan because I can not work because of his continual deployment and the government doesn't pay him enough to keep us above poverty level. My family has sacrificed so much and only keeps getting slapped in the face by our government. My family feels so used. I currently hold a commission as Major in the USAF IRR, which I am resigning, and I have told my husband, we will find him a way out. We just can't afford the price of your freedom anymore. I am sorry but fine speeches and big talk cannot put food on my table and bring my husband home alive. Thank you for this chance to share this with you.

Richard Perez, Sr.—Las Vegas, NV

On February 10th, 2005 at 11:30pm in Al Asad, Iraq, we lost our only son USMC LCpl Richard A. Perez Jr.

His story is on www.richardperezjr.com website.

The heartache will never end. My wife Rosemarie who had been a senior sales agent for State Farm with the states highest sales totals for the past 4 years is devastated and has no more energy to even perform her job anymore because of the loss of our only son.

I, Richard A. Perez Sr., Battle with this problem daily, recently our son had signed with us on a very large home loan which we thought would solve all problems as we have rented for 20+ years and never owned a home.

We bought it with the pretense that Rich would help us with the home loan and to build upon his career and life with his own family as he was generating money in his management position at Jack in the Box restaurant. The house has not been built as of yet, but the looming cost of a home here in Las Vegas is skyrocketing and a big payment is due soon. We cannot afford to do this as our daughter is a student at UNLV another a student in High School aspiring model and actress and a third only 10 years old a gymnast in Henderson . . . all girls who lost their brother.

I personally have lost my job and find myself on unemployment getting 329.00 per week because I grieved too long and could not perform my job at the level expected.

Costs run high, but our family has been ruined by a war my son never intended on entering as he was a reservist and had goals and dreams of his own. We still have not even gotten our sons final report , we don't even know the details of what happened? 8–9 weeks ago . . . He was proud to be a Marine and we are proud of him, the little money the Government gave us has paid his college loans at UCLA and we are faced with the hardship of our lives being ruined, because of Iraq.

My whole family has suffered during the past 2–3 months since the accident but really the past 7–9 months we've been stressed and it has affected all that we do daily.

What a disaster, what a shame that my own land of liberty, land of the free has placed us in bondage for years to come and has all of us reeling as where do we go from here?

I am a 7th generation American. My family tree is American Indian, Spanish and Mexican from Los Angeles, CA. I grew up thinking my country was great, my forefathers defended my stance so we can live today. My very uncle Fred Perez sold airplanes to Iraq and Iran as he worked for Boeing in the 60–70s. My cousin lost a leg in the USMC in Vietnam. My Uncle lost an arm in Korea and my wife's uncle died on the shores of France during WWII. What happened to the American Dream? Why, when my family and son defended liberty, do we now suffer? People in NYC buildings were provided 2 million dollars each so they could adjust to their loss. Yes, they needed it, but we do too.

Mr. WARNER. Mr. President, I will offer an amendment to H.R. 1268 which would require the Department of Defense to submit a report to Congress by July 15, 2005, on the Government's processes and policies for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for reuse and redevelopment decisions.

This report will be of tremendous assistance to States and local communities affected by BRAC, and faced with difficult decisions about the redevelopment and economic revitalization of their areas. The report required by this amendment is similar to Community Guides to base reuse, which were published by the Department of Defense in all four previous BRAC rounds during the Commission's deliberations. These guides served a vital purpose for affected communities by explaining existing Federal law pertaining to property disposal and by endorsing a proactive and cooperative relationship between military departments and local communities, without appearing to be directive in nature. I ask support for this amendment.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

ARMY 1ST LIEUTENANT CHARLES WILKINS, III

Mr. DEWINE. Mr. President, inscribed on an exterior wall of the Chapel at the Normandy American Cemetery and Memorial in France, are the following words:

> These endured all and gave all that justice among nations might prevail and that mankind might enjoy freedom and inherit peace.

Many years after the bloody battle on Normandy's shores and many miles from those sandy beaches and jagged cliffs, Army 1LT Charles Wilkins, III, of Columbus, OH, like the thousands of American servicemen who perished before him over 60 years ago, gave his life so that others, too, might enjoy freedom and inherit peace.

On August 20, 2004, 1st Lieutenant Wilkins was killed near Samarra, Iraq, when a roadside explosive detonated near his Humvee. He was 38-years-old.

Today, I would like to pay tribute to this fellow Ohioan and to take a few moments to remember him here in the Senate Chamber. You see, Charles—or Chuck, as he was known to his family and friends—was a deeply devoted, unselfish man. He lived his life with a sense of duty—always dutiful to his country, to his family, to his friends, and to his job. Chuck defined the term ''citizen soldier,'' balancing his service in the Ohio National Guard with his obligations to his family and his career.

After attending both Bishop Hartley High School and St. Charles Preparatory School, Chuck graduated in 1985, and enlisted in the U.S. Air Force. After his discharge, he enrolled at The Ohio State University to study economics. While in college, Chuck joined the Ohio National Guard because, according to his sister Lorin, ''He wanted to be an officer.'' After earning his college degree, Chuck took a job as a transportation planner with the Federal Highway Administration, became a volunteer for Habitat for Humanity, and began attending Capital Law School—all while continuing his service in the National Guard.

At any time, Chuck could have quit being a soldier and settled into a quiet life as a civilian. But, that wasn't the type of person he was. Rather, Chuck was the type of person who always gave 100 percent of himself. In addition to his full time job, his military responsibilities, and his law classes, Chuck served as a peer-advisor at Capital for first-year law students.

As someone who also attended law school, myself, I know how difficult and time consuming study can be—and Chuck Wilkins was doing it with a host of additional fulltime commitments! One of his advisees remembered how helpful Chuck was: